

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALICE L MOORE
Claimant

BLACK HAWK COUNTY
Employer

APPEAL 20A-UI-03669-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/20/19
Claimant: Respondent (1R)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(8)B(4) – Application for Redetermination

STATEMENT OF THE CASE:

On April 29, 2020, the employer filed an appeal from the April 15, 2020, notice of reimbursable benefit charges which listed charge information through March 31, 2020. The parties were properly notified of the hearing. A hearing was scheduled for May 21, 2020. Claimant and employer followed the instructions on the hearing notice and properly registered for the hearing. Official notice was taken of the administrative record. No hearing was held, as the issues on the hearing notice had been previously adjudicated by an administrative law judge and a remand to the Tax Bureau of Iowa Workforce Development remains pending.

ISSUE:

Have the issues been previously adjudicated by an administrative law judge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer, Black Hawk County, is a governmental entity that reimburses Iowa Workforce Development for unemployment benefits paid to current or former employees on a dollar-for-dollar basis. Thus, employer is considered a “reimbursable employer.”

Employer previously owned a long term care facility where claimant worked. On December 31, 2018, employer sold the business to a private entity who continues to operate the business.

The Tax Bureau of Iowa Workforce Development was notified of the sale, but did not send employer, Black Hawk County, a notice of whether it or the private enterprise that purchased the business would be liable for future benefit charges based on wage credits earned prior to the sale.

Claimant was offered a job by and worked for the private enterprise that purchased the business. Claimant was later separated from employment and filed a claim for unemployment insurance benefits with an effective date of October 19, 2019.

On October 22, 2019, Iowa Workforce Development sent a notice of claim to employer. Employer timely protested the claim. Even so, Iowa Workforce Development did not issue a decision on whether claimant was allowed benefits based on her separation from employment with employer when the business was sold.

Employer first became aware it was being charged for claimant's unemployment insurance benefits when it received the January 15, 2020, notice of reimbursable benefit charges for the fourth quarter of 2019. Employer filed a timely appeal.

On January 27, 2020, Iowa Workforce Development issued a reference 07 unemployment insurance decision allowing claimant benefits based on her separation from employment with this employer. Employer timely appealed the decision.

On February 12, 2020, administrative law judge Dawn Boucher held a hearing on whether employer filed a timely protest, whether employer timely appealed the notice of reimbursable benefit charges, and whether claimant was allowed benefits based on her separation from employment.

On February 19, 2020, ALJ Boucher issued written decisions (Appeal Nos. 20A-UI-00787-DB-T; 20A-UI-00907-DB-T) finding employer filed a timely protest, timely appealed the notice of reimbursable benefit charges, and that claimant was allowed benefits based on her separation from employment with employer. More importantly, ALJ Boucher remanded the case to the Tax Bureau of Iowa Workforce Development for a decision on whether the private enterprise that purchased the long term facility should absorb the benefit charges or if Black Hawk County should be held liable. Neither claimant nor employer appealed the decisions and they have become final.

To date, the Tax Bureau of Iowa Workforce Development has not issued a decision in accordance with ALJ Boucher's remand.

On April 15, 2020, Iowa Workforce Development sent employer a notice of reimbursable benefit charges including charges for claimant's benefits in the amount of \$3,783.25 for the first quarter of 2020. Employer again filed a timely appeal.

REASONING AND CONCLUSIONS OF LAW:

In this case, ALJ Boucher has already determined the issues in front of this administrative law judge. The employer did file a timely protest. The employer did timely appeal the notice of reimbursable charges. Claimant is allowed benefits based on the separation from employment. The parties did not appeal ALJ Boucher's decision and it has become final.

The only issue left to determine – whether employer should be charged for the benefits – is waiting on an initial decision from the Tax Bureau of Iowa Workforce Development.

The administrative law judge understands it is not every day that the Tax Bureau deals with a situation where a business is sold by a governmental entity to a private enterprise and that the Bureau might not have forms readily available to deal with such a situation.

Nevertheless, employer is being required to pay thousands of dollars to Iowa Workforce Development without having a chance to properly litigate its case. Employer has a clear property interest at stake. Due process under the Iowa Constitution requires Iowa Workforce

Development to issue a decision with appeal rights on whether employer will be held liable for claimant's benefits as soon as possible.

The Tax Bureau may find Iowa Code 96.7(7)e¹ instructive on this point.

DECISION:

The April 15, 2020, notice of reimbursable charges is affirmed pending a decision by the Tax Bureau of Iowa Workforce Development on whether this reimbursable employer should be held liable for charges on wage credits earned prior to the sale of a long term care facility to a private enterprise. Benefits are allowed, provided claimant is otherwise eligible.

REMAND:

The issue of whether this reimbursable employer should be held liable for charges on wage credits earned prior to the sale of a long term care facility to a private enterprise is remanded to the Tax Bureau of Iowa Workforce Development for a decision—with appeal rights—to be issued as soon as possible, but no later than the mailing date of the notice of reimbursable charges for the second quarter of 2020.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515)478-3528

May 26, 2020
Decision Dated and Mailed

cal/scn

¹ e. If the entire enterprise or business of a reimbursable governmental entity is sold or otherwise transferred to a subsequent employing unit and the acquiring employing unit continues to operate the enterprise or business, the acquiring employing unit shall assume the position of the reimbursable governmental entity with respect to the reimbursable governmental entity's liability to pay the department for reimbursable benefits based on the governmental entity's payroll to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the acquiring employing unit's own payroll prior to or after the acquisition of the governmental entity's enterprise or business. Iowa Code 96.7(7)e.