

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JANNA M MARIETTE
14315 PINEVIEW DR
BECKER MN 55308-9239**

**NEXTEL PARTNERS
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 04A-UI-03959-B4T
OC: 04/27/03 R: 12
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.7-2-a(6) – Whether the employer's fourth quarter 2003 Statement of Charges is correct

STATEMENT OF THE CASE:

An appeal was filed on behalf of the employer, Nextel Partners Operating Corp., from a Notice of Wage Transfer mailed to the employer by the Iowa Department of Employment Services Interstate Claims Unit on May 7, 2003. The Notice of Wage Transfer indicated the claimant filed a combined wage claim for job insurance benefits and has requested the Iowa Job Service Division to transfer previously reported earnings with Nextel Partners Operating Corp., during the base period for combining under the law of Minnesota which we have done. An additional statement was as follows: "Please note that your Iowa account may be charged in the future unless this form is returned to the address below, giving detailed information concerning this claimant's separation from your employment. Your response must be postmarked or received

not later than ten days from the date this notice was mailed to you. If the information justifies relief from charges in accordance with Iowa law, your account will not be charged.”

A telephone conference hearing was scheduled and held on April 26, 2004 pursuant to due notice. Janna M. Mariette did not respond to the notice of hearing mailed to him by the Appeals Section by providing a telephone number of where he could be contacted at the time of the scheduled hearing. The claimant was not represented during the hearing held.

Tom Lindquist, Human Resource Representative with Employer's Unity Inc. represented and participated as a witness on behalf of Nextel Partners Operating Corp. Myrna Olds, Imaging Manager; Mary Aragan, Salesroom Clerk; and Rhiannon Walgran, Senior Claims Specialist participated as witnesses on behalf of the employer.

Exhibit One and Exhibit Two were admitted into evidence.

FINDINGS OF FACT:

Janna M. Mariette was employed with Nextel Partners Operating Corp., from June 4, 2001 through October 24, 2002. The claimant filed an initial claim for benefits having an effective date of April 27, 2003. In addition, the claimant filed a combined wage claim for job insurance benefits requesting that wages earned during the base period be transferred to the state of Minnesota.

A Notice of Wage Transfer was mailed to Nextel Partners Operating Corp., on May 7, 2003 at the correct address shown on the bottom of page four admitted into evidence. The employer contended that a Notice of Wage Transfer was not received by the employer representative (Employer's Unity) and provided testimony from a variety of individuals who would have handled a Notice of Wage Transfer following its receipt by the employer. Numerous individuals including those testifying in the hearing would have handled the document. The record does not establish with any degree of certainty that the employer did not receive the Notice of Wage Transfer shown by page four attached to Exhibit One admitted into evidence.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.7-2-a(6) provides:

2. Contribution rates based on benefit experience.

a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

The Notice of Wage Transfer shown by page four attached to Exhibit One admitted into evidence clearly discloses that the document was mailed to the employer at the correct address

on May 7, 2003. Numerous individuals handle a Notice of Wage Transfer as well as other documentation received by the employer, which relate to a customer such as Nextel Partners Operating Corp. The evidence in the record did not establish justifiable reason for a conclusion that the Notice of Wage Transfer was not mailed to the employer as indicated on page four of Exhibit One.

The administrative law judge concludes that the Notice of Wage Transfer mailed to Nextel Partners Operating Corp., on May 7, 2003 shall stand in full force and effect.

DECISION:

The unemployment insurance Notice of Wage Transfer is hereby determined to stand in full force and effect.

kjf/b