

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**COLT H POWERS**  
Claimant

**FRANKLIN COUNTY RACE INC**  
Employer

**APPEAL 19A-UI-03258-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/27/19**  
**Claimant: Respondent (1-R)**

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Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code § 96.7(8)B(4) – Application for Redetermination  
Iowa Admin. Code r. 871-26.4(4) – Appeal to Benefits Charges

**STATEMENT OF THE CASE:**

On April 17, 2019, Franklin County Race, Inc. (employer) filed an appeal from the notice of reimbursable benefit charges dated April 15, 2019, which listed reimbursable benefit charge information for the first quarter of 2019. A hearing was held on May 21, 2019, pursuant to due notice. Colt H. Powers (claimant) did not respond to the hearing notice and did not participate. The employer participated through Manager Jim Davies. The Department's Exhibits D1 through D3 were admitted into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's claim history (DBRO).

**ISSUES:**

Is the employer's protest timely?  
Did the employer timely appeal the notice of reimbursable charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant works for the employer on an as needed basis. He filed the original claim for unemployment insurance benefits effective January 27, 2019, following a temporary layoff from his full-time employer. He claimed benefits for the two weeks ending February 9, 2019 and reported \$73.00 in wages earned both weeks.

The notice of claim was mailed to the employer's address of record on January 29, 2019. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the notice of reimbursable benefit charges mailed April 15, 2019 for the first quarter of 2019. The employer filed its appeal of that notice of charges on April 17, 2019.

The issues of whether the claimant is partially unemployed and whether the employer's account can be relieved of charges have not yet been investigated or adjudicated at the claim level.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the notice of reimbursable benefit charges.

Iowa Code section 96.6(2) provides, in pertinent part:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

Iowa Code section 96.7 provides, in relevant part:

Employer contributions and reimbursements.

7. Financing benefits paid to employees of governmental entities.

...

c. For purposes of this subsection, "governmental reimbursable employer" means an employer which makes payments to the department for the unemployment compensation fund in an amount equivalent to the regular and extended benefits paid, which are based on wages paid for services in the employ of the employer. Benefits paid to an eligible individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter. At the end of each calendar quarter, the department shall bill each governmental reimbursable employer for benefits paid during that quarter. Payments by a governmental reimbursable employer shall be made in accordance with subsection 8, paragraph "b", subparagraphs (2) through (5).

...

8. Financing benefits paid to employees of nonprofit organizations.

...

b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

...

(4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, not later than thirty days after the redetermination was mailed or otherwise delivered to the last

known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection 5.

(5) The provisions for collection of contributions under section 96.14 are applicable to reimbursements for benefits paid in lieu of contributions.

Iowa Administrative Code r. 871-26.4(4) provides:

Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days from the mailing date of the quarter billing of benefit charges.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, in conjunction with the agency regulations, provide guidance in the situation here, which deals with a reimbursable employer. It states that an employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits.

In this case, the employer has established it did not receive notice of the claim due to an error of the United States Postal Service. The employer's appeal of the notice of reimbursable charges within 15 days is timely.

Because the appeal is timely and the employer never previously received notice of the claim, the issues of whether the claimant is partially unemployed and whether the employer's account can be relieved of charges are remanded to the Benefits Bureau of Iowa Workforce Development (IWD) for an initial investigation and determination.

**DECISION:**

The April 15, 2019 notice of reimbursable benefit charges for the first quarter of 2019 is affirmed pending a determination on whether the claimant is eligible for benefits and whether the employer should be charged for those benefits.

**REMAND:**

The issues of whether the claimant is partially unemployed and whether the employer's account can be relieved of charges are remanded to the Benefits Bureau of IWD for an initial investigation and determination.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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