

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW L WHITTERS
Claimant

APPEAL 20A-UI-04126-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF NEWTON
Employer

**OC: 01/26/20
Claimant: Respondent (2)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

On April 29, 2020, City of Newton (employer/appellant) filed a timely appeal from the Notice of Reimbursable Benefit Charges dated April 15, 2020, for the first quarter of 2020. A hearing was scheduled and held on June 2, 2020, pursuant to due notice. Claimant participated personally. Employer participated through Administrative Services Manager/City Clerk Katrina Davis.

Employers exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Was the employer's protest timely?
Was the employer's appeal from the Notice of Reimbursable Benefit Charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The parties agree claimant was never employed by employer. Employer never received notice of the claim and as such did not protest the claim. Employer first learned of the claim upon receiving the Notice of Reimbursable Benefit Charges. Employer has since been in contact with IWD on several occasions. Employer believes the issue has now been administratively resolved.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the Notice of Reimbursable Benefit Charges dated April 15, 2020, for the first quarter of 2020 is REVERSED. The administrative law judge concludes the employer was incorrectly charged for benefits paid to claimant.

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(8)B(4) provides:

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.

Iowa Administrative Code rule 26.4(4) provides:

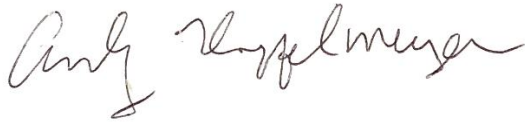
Also notwithstanding the provisions of subrule 36.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days from the mailing date of the quarterly billing of benefits charges.

Employer never received notice of the claim and as such did not protest the claim. Employer first learned of the claim upon receiving the Notice of Reimbursable Benefit Charges. As such, the administrative law judge finds employer is not foreclosed from challenging the charge of benefits paid due to an untimely protest. Employer also clearly timely appealed the Notice of Reimbursable Benefit Charges.

The administrative law judge finds claimant was never employed by employer. As such, employer was incorrectly charged for benefits paid to claimant. Employer has since been in contact with IWD on several occasions. Employer believes the issue has now been administratively resolved. To the extent this matter has not already been resolved administratively, the charges shall be removed and a corrected Notice of Reimbursable Benefit Charges issued.

DECISION:

The Notice of Reimbursable Benefit Charges dated April 15, 2020, for the first quarter of 2020, is REVERSED. Employer was incorrectly charged for benefits paid to claimant. To the extent this matter has not already been resolved administratively, it is remanded to the Tax Bureau of IWD for issuance of a corrected Notice of Reimbursable Benefit Charges or other appropriate action consistent with this decision



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 6, 2020
Decision Dated and Mailed

abd/mh