

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOEL R FRANK
Claimant

EXCEPTIONAL PERSONS INC
Employer

APPEAL 22A-UI-10057-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/26/21
Claimant: Respondent (1-R)**

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

STATEMENT OF THE CASE:

On January 25, 2022, Exceptional Persons, Inc. (employer) filed an appeal from the notice of reimbursable benefit charges dated January 15, 2022, which listed reimbursable benefit charge information for the fourth quarter of 2021. A telephone hearing was held at 1:00 p.m. on Friday, May 20, 2022, pursuant to due notice. Joel R. Frank (claimant) did not participate. The employer did participate through Human Resources Director Sara Drish. The administrative law judge took official notice of the administrative record.

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 separated from employment on December 5, 2020 and filed a claim for benefits effective September 26, 2021. The notice of claim appears in the online SIDES system. However, Drish credibly testified that the employer never received an alert regarding this notice of claim and was not aware of its existence. The first notice of the claimant's claim for benefits was the receipt of the notice of reimbursable benefit charges mailed on January 15, 2022 for the fourth quarter of 2021. The employer filed its appeal of that notice of charges on January 25, 2022.

Whether the claimant's separation qualifies him for benefits has not yet been investigated or adjudicated by the Benefits Bureau.

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 Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. Notwithstanding the provisions of subrule 26.4(2), a contributory 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 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(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 of the mailing date of the quarterly billing of benefit charges.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that a contributory 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 following receipt of a statement of charges. While Iowa Code sections 96.7(7) and (8) which address reimbursable employers do not specifically state the reimbursable employers have appeal rights following the notice of reimbursable charges if they did not receive prior notice of the claim, Iowa Admin Code r. 871-26.4(4) allows for such an appeal.

The employer did not receive notice of the claim due to an apparent error with the online SIDES system. The employer's appeal of the notice of reimbursable charges within 15 days is timely.

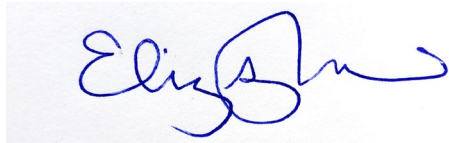
Because the appeal is timely and the employer never previously received notice of the claim, the issues of the reason for the separation and requalification are remanded to the Benefits Bureau of Iowa Workforce Development (IWD) for an initial investigation and determination.

DECISION:

The January 15, 2022, notice of reimbursable benefit charges for the fourth quarter of 2021 is affirmed pending the outcome on the remanded issues.

REMAND:

The issue of whether the claimant's separation from employment with the employer on December 5, 2020, qualifies him to receive benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision to include both parties.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 9, 2022
Decision Dated and Mailed

lj/