

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KATHERINE M COTHER**  
Claimant

**APPEAL 17A-UI-08260-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**OC: 05/28/17  
Claimant: Respondent (2R)**

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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:**

The employer filed an appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. A hearing was scheduled and held on August 29, 2017, pursuant to due notice. The claimant did not participate. The employer did participate through human resource specialist Jenna Johnson.

**ISSUE:**

Was the employer's protest or appeal from the statement of charges timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed to the employer's address of record on June 6, 2017. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed August 9, 2017, for the second quarter of 2017. The employer filed its appeal of that Statement of Charges on August 14, 2017. Employer wishes to protest the charges to its account based on the fact that claimant is still employed by employer on a part-time, on-call basis. The issues of whether claimant is eligible for benefits based on her current employment status and whether employer should be charged for the benefits have not yet been investigated or adjudicated at the claim level.

**REASONING AND CONCLUSIONS OF LAW:**

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(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 administrative law judge concludes that the employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is timely. The issues of whether claimant is eligible for benefits based on her current employment status and whether employer should be charged for the benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The August 9, 2017, Statement of Charges for the second quarter of 2017 is reversed. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

**REMAND:**

The issues of whether claimant is eligible for benefits based on her continued employment and whether employer should be charged for the benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Christine A. Louis  
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Decision Dated and Mailed

cal/scn