

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

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HY-VEE INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

TALX UC EXPRESS
3799 VILLAGE RUN DR #511
DES MOINES IA 50317

Appeal Number: 05A-UI-06719-JTT
OC: 01/02/05 R: 01
Claimant: Respondent (2-R)

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) – Employer Contribution

STATEMENT OF THE CASE:

Hy-Vee filed an appeal from the June 21, 2005, reference 01, decision that allowed benefits and deemed the employer's protest untimely. After due notice was issued, a hearing was held by telephone conference call on July 15, 2005. David Williams of TALX UC eXpress represented Hy-Vee. The claimant contacted the administrative law judge on July 12, 2005, and waived his presence at the hearing. Department Exhibits D-1 and D 2 were received into evidence.

FINDINGS OF FACT:

The claimant established a claim for benefits that was effective January 2, 2005. On May 5, 2005, Iowa Workforce Development mailed a Notice of Claim, form 65-5317, to the employer's address of record. Neither the employer nor the employer's representative received the notice

of claim. The employer and the employer's representative first learned of the claim for benefits when Workforce Development mailed a quarterly assessment on May 9, 2005. The employer submitted its appeal of the assessment on June 7, 2005, pursuant to Iowa Code Section 96.7(2)(a)(6).

REASONING AND CONCLUSIONS OF LAW

Iowa Code section 96.7(2)(a)(6) provides as follows:

Within 40 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 that has not been notified as provided in section 96.6(2) of the allowance of benefits to an individual, may within thirty days after the date of the 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 claimant shall receive notice of the time and place of the hearing.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that the employer did not receive timely notice of the claim for benefits, was denied a reasonable opportunity to protest the claim, and filed a timely appeal of the assessment for benefits paid to the claimant. Accordingly, the matter should be remanded to the fact finder for a determination of the claimant's eligibility for benefits and whether the employer should be assessed for benefits paid to the claimant.

DECISION:

The Agency representative's June 21, 2005, reference 01, decision is reversed. The employer did not receive notice of the claim for benefits. The matter is remanded to the fact finder for a determination of the claimant's eligibility for benefits and whether the employer should be assessed for benefits paid to the claimant.

jt\kjw