

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAFAEL A MUHAMMAD
Claimant

APPEAL 18A-UI-08304-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHILDREN AND FAMILIES OF IOWA
Employer

**OC: 05/06/18
Claimant: Respondent (1R)**

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:

Children and Families of Iowa (employer) filed an appeal from the Statement of Charges dated July 30, 2018, for the second quarter of 2018. A hearing was held on August 24, 2018, pursuant to due notice. Rafael A. Muhammad (claimant) did not respond to the hearing notice and did not participate. The employer participated through Program Director Jodi Tate. The Employer's Exhibit 1 was admitted into the record.

ISSUES:

Was the employer's protest timely?
Was the employer's 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 claimant filed his claim for benefits effective May 6, 2018. The notice of claim was mailed to the employer's address of record on May 8, 2018. The employer protested the claim for benefits on May 9, stating, "This was a temp worker thru the Workforce Investment Opportunity Act. Worked with Art Force – was paid client not an employee." (Exhibit 1) The employer faxed that information to Iowa Workforce Development (IWD), but the employer's protest was not received and no fact-finding interview was held.

The first notice the employer had that the claimant was receiving unemployment insurance benefits based on wages paid was the Statement of Charges mailed July 30, 2018, for the second quarter of 2018. The employer filed its appeal of that Statement of Charges on August 1, 2018. There are issues of the whether the wages are eligible for inclusion when determining unemployment insurance benefits, the reason for the separation, and whether the claimant has requalified for benefits that have not yet been investigated or adjudicated at the claims level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest and timely appeal to the Statement of Charges.

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

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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 was the first notice it had after filing a timely protest that its account was being charged for the claimant's benefits. The employer's appeal of that Statement within thirty days is timely. The issues of whether the wages are eligible for inclusion when determining unemployment insurance benefits, whether the reason for the separation is qualifying, and whether the claimant has requalified for benefits are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

DECISION:

The July 30, 2018, Statement of Charges for the second quarter of 2018, is affirmed, pending the outcome of the remanded issues. The employer has filed a timely protest and a timely appeal from that Statement of Charges.

REMAND:

The issues of the whether the wages are eligible for inclusion when determining unemployment insurance benefits, whether the reason for the separation is qualifying, and whether the claimant has requalified for benefits are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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