

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANGIE A DELONG**  
Claimant

**APPEAL 21A-UI-00540-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MLC ENTERPRISES LLC**  
Employer

**OC: 05/17/20**  
**Claimant: Respondent (1-R)**

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 November 20, 2020, MLC Enterprises, LLC (employer) filed an appeal from the statement of charges dated November 9, 2020, for the third quarter of 2020. A hearing was held on February 9, 2021, pursuant to due notice. Angie A Delong (claimant) participated personally. The employer participated through Mike Conatser, Franchisee. The Department's Exhibits D1 through D4 were admitted into the record. The administrative law judge took official notice of the administrative record, specifically the claimant's wage and claim histories.

**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 separated from employment in the fourth quarter of 2019, and she filed a claim for unemployment insurance benefits effective May 17, 2020, after she became reemployed by the employer. The claimant's weekly benefit amount is \$99.00. The claimant reported a total of \$396.00 in wages earned from May 17 through June 27. The employer reported paying the claimant \$438.00 in gross wages during the second quarter of 2020, and \$216.00 in gross wages in the third quarter of 2020. The claimant separated from employment again sometime after June 27.

The notice of claim was mailed to the employer's address of record on May 27. The employer did not receive that notice. On August 7, the statement of charges for the second quarter of 2020 was mailed to the employer's address of record. The employer did not receive that statement. The first notice of the claimant's claim for benefits was the receipt of the statement of charges mailed November 9, for the third quarter of 2020. The employer filed its appeal of that statement of charges on November 18.

The issues of whether the claimant was partially unemployed from May 17 through June 27; whether she underreported wages earned; and, whether the separations from the employer in the fourth quarter of 2019 and the third quarter of 2020 qualify her for unemployment insurance benefits have not 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 did file a 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.

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.

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 or prior statement of charges 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 the claimant was partially unemployed from May 17 through June 27; whether she underreported wages earned; and, whether the separations from the employer in the fourth quarter of 2019 and the third quarter of 2020 qualify her for unemployment insurance benefits, are remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decisions to include both parties.

**DECISION:**

The November 9, 2020, statement of charges for the third quarter of 2020 is affirmed, pending the outcome of the remanded issues. The employer has filed a timely appeal from that statement of charges, as the notice of claim and prior statement of charges were not received.

**REMANDS:**

The issues of whether the claimant was partially unemployed from May 17 through June 27; whether she underreported wages earned; and, whether the separations from the employer in the fourth quarter of 2019 and the third quarter of 2020 qualify her for unemployment insurance benefits, are remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decisions to include both parties.



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Stephanie R. Callahan  
Administrative Law Judge

February 22, 2021  
Decision Dated and Mailed

src/scn