

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL E GAINER
Claimant

APPEAL 18A-UI-08377-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MIDWEST AMBULANCE SERVICES
OF IOWA**
Employer

**OC: 12/17/17
Claimant: Respondent (2)**

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 mailed on July 16, 2018, for the first quarter of 2018. A review of the employer's appeal documents as well as agency records revealed that no additional testimony was necessary and no hearing was held.

ISSUE:

Did the employer file a timely appeal from the statement of charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A review of the agency's document storage system Dataworks/Alfresco illustrates that no notice of claim was ever mailed to this employer when the claimant filed a claim for benefits with an effective date of December 17, 2017. The first notice the employer received of the claimant's claim for benefits was the receipt of the Statement of Charges mailed July 16, 2018 for the first quarter of 2018. The employer filed its appeal of that Statement of Charges on August 6, 2018 within the 30 day time period. There are issues of the reason for the separation, if any, and requalification that have not yet been investigated or adjudicated at the claims 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 a 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 the reason for the separation, if any, and requalification are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 is reversed. The employer has filed a timely appeal from that Statement of Charges, as no Notice of Claim was ever sent to the employer.

REMAND:

The issues of the reason for the separation and whether the claimant has requalified for benefits are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs