

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROLE N HANSBROUGH
Claimant

APPEAL 21A-UI-01717-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOUNT MERCY UNIVERSITY
Employer

OC: 07/05/20
Claimant: Respondent (1)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(8)B(4) – Application for Redetermination

STATEMENT OF THE CASE:

On November 17, 2020, the employer filed an appeal from the October 15, 2020, notice of reimbursable benefit charges which listed charge information through September 30, 2020. The parties were properly notified of the hearing. A hearing was held on February 24, 2021. Claimant did not register for the hearing and did not participate. Employer participated through associate director of human resources Connie Albaugh. Department Exhibit 1 was received. Official notice was taken of the administrative record.

ISSUES:

Is the employer's protest timely?
Did the employer timely appeal the notice of reimbursable charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of July 5, 2020.

On July 9, 2020, Iowa Workforce Development mailed a notice of claim to employer's address of record. Employer did not receive the notice of claim.

On October 15, 2020, Iowa Workforce Development mailed a notice of reimbursable charges to employer that included charges for claimant's unemployment insurance benefits. Employer received the notice of reimbursable charges in a timely manner. Employer paid the bill in a timely manner, but did not carefully review the notice until after the deadline to appeal had passed. At that point, employer carefully reviewed the notice and realized it was being charged for claimant's benefits. Employer did not file its appeal until November 17, 2020.

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(8)b(4) provides:

8. Financing benefits paid to employees of nonprofit organizations.

b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

(4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, within thirty days after the mailing of the notification, the nonprofit organization appeals 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 Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that an employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits.

In this case, the administrative law judge concludes the employer did not receive the notice of claim, but also did not timely appeal the charges. The notice of reimbursable charges warns that an appeal is due 15 days after the notice was mailed. Employer did not timely appeal because it did not carefully review the notice at the time it was received.

The record shows that the appellant did have a reasonable opportunity to file a timely appeal. The administrative law judge concludes that failure to follow the clear written instructions to file a timely appeal within the time prescribed by the Iowa Employment Security Law *was not due to any Agency error or misinformation or delay or other action of the United States Postal Service* pursuant to Iowa Admin. Code r. 871-24.35(2). The administrative law judge further concludes that the appeal was not timely filed, and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal. See, *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. Iowa Dep't of Job Serv.*, 277 N.W.2d 877 (Iowa 1979).

DECISION:

The October 15, 2020, notice of reimbursable benefit charges is affirmed. The employer did not file a timely appeal to the notice of reimbursable charges. The charges shall remain in full force and effect. Benefits are allowed, provided claimant is otherwise eligible.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 4, 2021
Decision Dated and Mailed

cal/mh