

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ASHLEY DIEKHUIS**  
Claimant

**MASON CITY CLINIC PC**  
Employer

**APPEAL 20A-UI-16135-SC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Respondent (1)**

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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 13, 2020, Mason City Clinic, PC (employer) filed an appeal from the statement of charges dated November 9, 2020, reference 01, for the third quarter of 2020. A hearing was held on February 1, 2021, pursuant to due notice. Ashley Diekhuis (claimant) participated personally. The employer participated through Dana Young, Administrator. The department's Exhibits D1 through D3 were received.

**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 her claim for benefits effective April 5, 2020. On April 10, Iowa Workforce Development (IWD) mailed a notice of claim to the employer's address of record. The employer received this notice, along with many others. Dana Young, Administrator, completed the form and selected, "I am NOT protesting this claim." (Exhibit D1) IWD received the employer's response on April 15.

The employer received a statement of charges dated November 9, for the third quarter of 2020, which included a charge for benefits paid to the claimant. The employer appealed the statement of charges on November 13, stating the claimant voluntarily quit on February 21.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer does not have appeal rights to the statement of charges under Iowa 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. [Emphasis added.]

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.

An appeal to the statement of charges is only appropriate when the employer did not have prior notice of the claim. In this case, the employer received the notice of claim and filed a response stating they were not protesting the claim. The employer had an opportunity to protest the claim before receiving the statement of charges. Therefore, the employer does not have appeal rights to the statement of charges, and the administrative law judge lacks jurisdiction to alter the statement of charges.

**DECISION:**

The November 9, 2020, reference 01, statement of charges for the third quarter of 2020 is affirmed. The employer does not have appeal rights from the statement of charges under Iowa law, because it had prior notice of the claimant's claim.



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Stephanie R. Callahan  
Administrative Law Judge

February 17, 2021  
Decision Dated and Mailed

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