

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL SCHILCHER
Claimant

BOY SCOUTS OF AMERICA NORTHEAST
Employer

APPEAL 21A-UI-00058-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/19/20
Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(8)b(4) – Application for Redetermination
Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief of Charges

STATEMENT OF THE CASE:

On October 19, 2020, Boy Scouts of America Northeast (employer) filed an appeal from the notice of reimbursable benefit charges dated October 15, 2020, reference 01, for the third quarter of 2020. A hearing was held on February 2, 2021, pursuant to due notice. Daniel Schilcher (claimant) participated. The employer participated through Anna Hudak, Scout Executive/CEO. The Department's Exhibits D1 through D3 were admitted into the record.

ISSUES:

Did the employer file a timely appeal from the notice of reimbursable benefit charges?
Can the employer be relieved of charges on a combined wage claim?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a combined wage claim for unemployment insurance benefits in the state of Montana effective April 19, 2020. Iowa Workforce Development (IWD) mailed a notice of wage transfer to the employer's address of record on April 22. The notice of wage transfer states, in relevant part:

Please note that you Iowa account be charged in the future unless this form is returned to the address above, giving detailed information concerning this claimant's separation from your employment. Your response must be postmarked or received not later than ten days from the date this notice was mailed to you. ***If the information justifies relief from charges in accordance with Iowa law, your account will not be charged.*** [Emphasis in original.]

Exhibit D1. The employer received the notice within ten days and responded to IWD on April 24. According to the employer, the claimant separated from employment when his seasonal employment ended. The employer's first notice that their account had not been relieved of charges was the receipt of the notice of reimbursable benefit charges mailed

October 15, for the third quarter of 2020. The employer filed its appeal of the notice of reimbursable benefit charges on October 19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest and appeal from the notice of reimbursable benefit charges. However, it has not provided a reason for separation that justifies relief of charges under Iowa law and its account shall be charged for benefits paid.

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 provides, in relevant part:

Employer contributions and reimbursements.

7. Financing benefits paid to employees of governmental entities.

...

c. For purposes of this subsection, "governmental reimbursable employer" means an employer which makes payments to the department for the unemployment compensation fund in an amount equivalent to the regular and extended benefits paid, which are based on wages paid for services in the employ of the employer. Benefits paid to an eligible individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter. At the end of each calendar quarter, the department shall bill each governmental reimbursable employer for benefits paid during that quarter. Payments by a governmental reimbursable employer shall be made in accordance with subsection 8, paragraph "b", subparagraphs (2) through (5).

...

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, not later than thirty days after the redetermination was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection 5.

(5) The provisions for collection of contributions under section 96.14 are applicable to reimbursements for benefits paid in lieu of contributions.

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.

Iowa Admin. Code r. 871-23.43(9)(a) and (b) provide:

Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be

made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. **If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.** [Emphasis added.]

The employer filed the appeal to the notice of reimbursable charges, the first notice it had that its account had not been relieved of charges, within fifteen days, making the appeal timely. Additionally, the employer filed its response to the notice of wage transfer within the allotted ten days, and any delay in processing that response was due to IWD.

However, the employer has not provided information regarding the separation that would relieve its account of charges under Iowa law. The employer no longer had work for the claimant. He did not voluntarily quit without good cause attributable to the employer, nor did the employer discharge him for disqualifying misconduct. (See Iowa Code §§ 96.5(1) and 96.5(2)a.) Therefore, the employer is liable for the charges and the notice of reimbursable benefits charges is correct.

DECISION:

The October 15, 2020, reference 01, notice of reimbursable benefit charges for the third quarter of 2020 is affirmed. The employer has filed a timely appeal from that notice and a timely response to the notice of wage transfer; however, the reason for the claimant's separation from employment does not justify relief of charges to its account. The claimant's qualification and eligibility for benefits shall be determined by the state of Montana, where the claim was filed.



Stephanie R. Callahan
Administrative Law Judge

February 18, 2021
Decision Dated and Mailed

src/scn