

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

SHANE A MANNING
Claimant

HENRY COUNTY
Employer

APPEAL 22A-UI-18224-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/26/22
Claimant: Respondent (1R)

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

STATEMENT OF THE CASE:

On October 21, 2022, Henry County (employer) filed an appeal from the notice of reimbursable benefit charges dated October 15, 2022, reference 01, which listed reimbursable benefit charge information for the third quarter of 2022. A telephone hearing was held at 8:00 a.m. on Tuesday, November 29, 2022, pursuant to due notice. Shane A. Manning (claimant) participated. Employer Henry County participated through witness/representative Jacob Hotchkiss, County Engineer; and witness Jeen McCall, Office Manager. The administrative law judge took official notice 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: The claimant separated from employment on October 19, 2021 and filed a claim for benefits effective June 26, 2022. Between claimant's separation from the employer and opening his claim for benefits, he worked for another employer but did not earn ten times his weekly benefit amount of \$571.00, or \$5,710.00.

The notice of claim was provided to the employer in the SIDES system with an e-mail alert on June 30, 2022. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the notice of reimbursable benefit charges mailed on October 15, 2022 for the third quarter of 2022. The employer filed its appeal of that notice of charges on October 21, 2022.

Whether the claimant's separation qualifies him for benefits has not yet 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 filed a timely appeal from the notice of reimbursable benefit charges.

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 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 a contributory 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 following receipt of a statement of charges. While Iowa Code sections 96.7(7) and (8) which address reimbursable employers do not specifically state the reimbursable employers have appeal rights following the notice of reimbursable charges if they did not receive prior notice of the claim, Iowa Admin Code r. 871-26.4(4) allows for such an appeal.

The employer did not receive an email from the online SIDES system alerting it that the notice of claim was available. The employer's appeal of the notice of reimbursable charges within 15 days is timely.

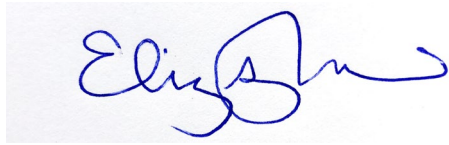
Because the appeal is timely and the employer never previously received notice of the claim, the issues of the reason for the separation and requalification are remanded to the Benefits Bureau of Iowa Workforce Development (IWD) for an initial investigation and determination.

DECISION:

The October 15, 2022, reference 01, notice of reimbursable benefit charges for the third quarter of 2022 is affirmed pending the outcome on the remanded issues.

REMAND:

The issue of whether the claimant's separation from employment with the employer on October 19, 2021, qualifies him to receive benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision to include both parties.



Elizabeth A. Johnson
Administrative Law Judge

December 1, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.