

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LACRECIA K WILLIS**  
Claimant

**APPEAL 18A-UI-09004-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA CITY AMBULATORY SURGERY  
CENTER**  
Employer

**OC: 01/07/18**  
**Claimant: Respondent (1R)**

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Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges  
Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed an appeal from the second quarter 2018, statement of charges that notified them that their account was being charged for benefits paid to Lacrechia K. Willis. The parties were properly notified about the hearing. A telephone hearing was held on September 13, 2018. Claimant participated. Employer participated through Julie Brinegar, Executive Director. Official notice was taken of agency records

**ISSUES:**

Did the employer file a timely protest to the notice of claim?  
Did the employer file a timely appeal to the statement of charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is still employed for this employer and continues to earn wages. Claimant has claimed unemployment insurance benefits beginning with the week ending January 13, 2018 through date of hearing as she continues to claim weekly benefits. She has worked and earned wages from Iowa City Ambulatory Surgery Center during that entire time period. At no time has she reported any of the wages that she has earned from Iowa City Ambulatory Surgery Center to the agency when making her weekly continued claim.

At the hearing September 13, the administrative law judge specifically told the claimant that she was obligated to report all wages earned with this employer each week she made a weekly continued claim for unemployment insurance benefits.

A notice of claim was mailed to the employer on January 10, 2018, at their chosen address of 600 S Cliff Ave in Sioux Falls South Dakota. The employer employed a management company to handle their unemployment insurance matters for them. The company did not notify anyone

at Iowa City Ambulatory Surgery Center that Ms. Willis had filed a claim. The management company did not file a notice of protest.

A statement of charges for the first quarter of 2018 was also mailed to the employer at the South Dakota address on July 16, 2018. Again the management company did not notify this employer that they had received a statement of charges. No appeal was filed to the first quarter 2018 statement of charges by the employer.

The employer changed their address and mailing address and received the second quarter 2018 statement of charges. They filed an appeal to the 2018 second quarter statement of charges on August 23, 2018.

#### **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 did not file its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not file an appeal to the notice of protest that was sent to its designated address on January 10, 2018 nor did they file a timely appeal to the first quarter statement of charges mailed to them on July 16, 2018.

**DECISION:**

The second quarter 2018, Statement of Charges is affirmed. The employer did not file a timely appeal from the notice of claim or from the first quarter statement of charges. The charges shall remain in full force and effect pending further agency action.

**REMAND:**

Claimant has claimed unemployment insurance benefits beginning with the week ending January 13, 2018 through date of hearing as she continues to claim weekly benefits. She has worked and earned wages from Iowa City Ambulatory Surgery Center during that entire time. At no time has she reported any of the wages that she has earned from Iowa City Ambulatory Surgery Center to the agency when making her weekly continued claim. This matter is remanded to the Investigations and Recovery Bureau for further inquiry.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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