

875—35.4(91A) Investigation.

35.4(1) *Receipt of wage claim form.* Upon receipt by the director of a completed and signed wage claim form, the director will review the claim. The director's review is not a contested case as defined in Iowa Code chapter 17A.

35.4(2) *Employer notification of wage claim.* The director will notify the employer in writing of the allegations of the claimant and request a response from the employer within 14 days from the date of the letter. This period may be extended by the director for good cause.

35.4(3) *Failure of employer to respond.* If the employer fails to answer the director's request for response within the 14-day period, or as extended by the director, the director may determine the claim to be enforceable.

35.4(4) *Additional information from claimant.* If the employer answers the director's request for response within the established time, the director may notify the claimant of the employer's response and afford the claimant an opportunity to present additional information.

35.4(5) *Additional information from employer.* Upon receipt of the requested additional information from the employee, the director may determine additional information is required from the employer.

35.4(6) *Determination of enforceability.* Upon receipt of sufficient information, the director may determine the claim for wages to be enforceable and notify the claimant and the employer of that determination.

35.4(7) *Determination of unenforceability.* The director may, at any time, determine a claim to be unenforceable. Should the director determine the claim is unenforceable, the director shall so notify the claimant. Reasons for the director to determine that a claim is unenforceable include but are not limited to the following:

- a. Doubtful legal validity or complexity of the claim.
- b. Doubtful ability to collect money from the employer.
- c. The claim may require extensive discovery or involve protracted proceedings.
- d. The potential value of the claim is such that the cost of the claimant's obtaining legal counsel for a private action would not be prohibitive.
- e. The claimant is not responsive to the reasonable requests of the director, including but not limited to requests to provide information and to participate in a legal action.
- f. The claimant fails to notify the director of an address change.
- g. The inequity of the claim in the particular situation.
- h. Another jurisdiction or forum is preferable for the claim.
- i. A substantial probability that the claimant was not an employee.
- j. The claim has been included in a bankruptcy estate.

35.4(8) *Settlement of claim.* The director may settle a claim at any time with the consent of the claimant. Such consent may be included on the wage claim form.

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