

871—23.43(96) Charging of benefits to employer accounts.

23.43(1) *Benefits paid to an eligible claimant.* Benefits paid to an eligible claimant are charged against the base period wage credits in the same inverse chronological order in which the wages were paid to the claimant.

23.43(2) *Formula for charging employer accounts.*

a. Wage credits in the most recent quarter of the base period will be used first, and when wage credits in this quarter are exhausted, wage credits for the next most recent quarter will be used until each of the four quarters in the base period is exhausted or until the claimant is paid an amount not to exceed the claimant's maximum benefit amount.

b. Each employer who has wage credits in the quarter of the base period will be charged the employer's proportional share of each payment. The proportional share to be charged to each employer in a specific quarter will be based upon the total employer wage credits within that quarter.

23.43(3) *Rule of two affirmances.*

a. Whenever an administrative law judge affirms a decision of the representative or the employment appeal board affirms the decision of an administrative law judge, allowing payment of benefits, such benefits will be paid regardless of any further appeal.

b. However, if the decision is subsequently reversed by higher authority:

(1) The protesting employer involved will have all charges removed for all payments made on such claim.

(2) All payments to the claimant will cease as of the date of the reversed decision unless the claimant is otherwise eligible.

(3) No overpayment will accrue to the claimant because of payment made prior to and during the period in which the department is processing the reversal decision.

23.43(4) *Supplemental employment.*

a. An individual who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges.

b. On a second benefit year claim where the individual worked only for the part-time employer during the base period and the lag quarter, the part-time employer is not considered for relief of benefit charges with the onset of the second benefit year. It is the part-time employer's responsibility to notify the department of the part-time employment situation so the department may render a decision as to the availability of the individual and benefit charges. The individual is required to report gross wages earned in the part-time employment for each week claimed, and the wages will be deducted from any benefits paid in accordance with Iowa Code section 96.3(3).

c. An individual who voluntarily quits supplemental part-time employment without good cause and who has not requalified for benefits following the voluntary quit of supplemental part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, will not be disqualified for voluntarily quitting without good cause the supplemental part-time employer.

d. The individual and the supplemental part-time employer that was voluntarily quit without good cause will be notified of the decision made by a department representative, via the Decision of the Workforce Development Representative form, that benefit payments that are based on the wages paid by the supplemental part-time employer shall not be made and benefit charges shall not be assessed against the supplemental part-time employer's account; however, once the individual meets the requalification requirements following the voluntary quit without good cause of the supplemental part-time employer, the wages paid in the supplemental part-time employment will be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

23.43(5) *Sole purpose.* The claimant is eligible for benefits, even though the claimant voluntarily quit, if the claimant left for the sole purpose of accepting an offer of other or better employment, which the

claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge will accrue to the account of the former voluntarily quit employer.

23.43(6) *Department-approved training.* A claimant who qualifies and is approved for department-approved training (rule 871—24.39(96)) shall continue to be eligible for benefit payments. No contributing employer shall be charged for benefits that are paid to the claimant during the period of the department-approved training. The relief from charges does not apply to the reimbursable employer that is required by law or election to reimburse the trust fund, and the employer shall be charged with the benefits paid.

23.43(7) *Ten times the weekly benefit amount in insured work requalification.*

a. In order to meet the provision regarding ten times the weekly benefit amount in insured work requalification, the following criteria must be met:

Subsequent to leaving or refusing work, the individual shall have worked in (except in back pay awards) and been paid wages equal to ten times the claimant's weekly benefit amount.

b. An employer's account will not be charged with benefit payments to an eligible claimant who quit such employment without good cause attributable to the employer or who was discharged for misconduct or who failed without good cause either to apply for available, suitable work or to accept suitable work with that employer but shall be charged to the balancing account.

c. The requalification and transfer of charges will occur for the employer if the requalifying employment is earned with an out-of-state covered employer. The transfer of charges will be made to the balancing account.

d. Periods of insured employment with separate employers may be joined to collectively equal ten times the individual's weekly benefit amount when requalification cannot be accomplished by an individual insured employer. The employer from whom the individual left work or was discharged or with whom the individual failed to apply or accept suitable work will not accrue any charges.

e. Before benefits can be paid or the transfer of charges can occur, sufficient evidence must be present to establish the fact that the criteria in paragraph 23.43(8)“*a*” has been met. Verification of employment may be completed through the records of the department or by using any method establishing proof of the necessary wage credits, including the following:

(1) An employment verification form is an affidavit prepared in duplicate stating the insured employer's name, mailing address, the starting date of employment, and wages paid subsequent to that date. The form must be signed by the claimant alleging that the facts are correct. Any misrepresentation in the form may result in overpayment, fraud charges, an administrative penalty, or any or all thereof. A copy of the form must be mailed to the employer or employers for verification. The employer should review the information on the form and certify that it is either correct or in error. If the information is incorrect, the employer should give the proper information. If the employer fails to return the form within five days of date mailed, the information on the form will be presumed to be correct.

(2) Employment check stubs may be used in conjunction with the employment verification form to indicate the requalifying period.

23.43(8) *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.

(1) No reimbursement so payable may 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 may not exceed the amount that would have been charged on the basis of a valid Iowa claim.

(2) 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 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 are assessed to the employer that 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 will go to the balancing account.

c. Requests received from the paying state for amounts in excess of an amount equal to potential charges of an Iowa claim will not be charged to the Iowa employer.

d. When Iowa is the paying state on an interstate claim and Iowa wage credits are insufficient to have a valid Iowa claim, charges will not be made against the Iowa employer's account but will be charged to the balancing account.

23.43(9) *Extended benefits.*

a. Fifty percent of the amount of each week of extended benefits paid to an individual in accordance with rule 871—24.46(96) shall be charged against the account of the employer that is chargeable for the extended benefits; however, 100 percent of the amount of each week of extended benefits paid to an individual shall be charged against the account of the Indian tribal and governmental contributory or reimbursable employer that is chargeable for the extended benefits.

b. The lack of a one-week waiting period prohibits this state from receiving a payment from the U.S. Department of Labor for 50 percent of the amount of the first week of extended benefits paid to an individual. This amount will not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

c. In the event that a payment from the U.S. Department of Labor for 50 percent of any week of extended benefits paid to an individual is reduced under an order issued under Section 252 of the United States Balanced Budget and Emergency Deficit Control Act of 1985, the amount of the reduction may not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

23.43(10) *Charging of benefits paid to individuals employed by two or more employers.*

a. Whenever wage reports submitted to the department show the employment of an individual by more than one employer in the same calendar quarter, benefits shall be charged to each employer's account in the same proportion as wages paid in the quarter.

b. Benefits for partial unemployment shall be charged in the same manner as benefits for total unemployment.

23.43(11) *Government contributory charges.* For the purpose of determining the base rate for government contributory employers, a percentage of all benefits that are paid but are not chargeable to employer accounts because of various provisions of the law will be considered as belonging to government contributory employers. The percentage of the nonchargeable benefits considered to be attributable to government contributory employers for each calendar year will be determined by the ratio of the benefits actually charged to government contributory accounts for the year to the total benefits charged to all contributory accounts for the year.

23.43(12) *Removal of benefit charges upon the sale or transfer of a clearly segregable part of an employer's business or enterprise when the acquiring employer does not receive a partial transfer of experience.* Benefits based on wages earned with the transferring employer, paid to an individual who worked in and was paid wages for work with the acquiring employer, shall be transferred to the balancing account. The transferring employer must protest this issue on the Notice of Claim in a timely manner to receive relief from the charges. The relief of charges applies to both contributory and reimbursable employers.

23.43(13) *Disaster relief.* An employer will not be charged with benefits for unemployment that is directly caused by a disaster declared by the president of the United States, pursuant to the United States Disaster Relief Act of 1974, if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of regular benefits. The employer may protest the charges on the Notice of Claim or the Quarterly Charge Statement within 30 days after the date of mailing of the Quarterly Charge Statement.

This rule is intended to implement Iowa Code sections 96.3(7), 96.5(1), 96.6(2), 96.7, 96.8(5), 96.9(5), 96.11(1), 96.16(4) and 96.29.

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