

The Honorable John Abshire
Acting Commissioner
Department of Labor

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Assignment of wage claims
to the Department of
Labor by minors

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The Department of Labor has asked whether it is necessary to have a parent or guardian agree to an assignment of wage claim made by a minor^{1/} to the department. It is our opinion that the department should require minors' assignments to be signed by the parent or guardian, because an assignment without authorization by the responsible adult is voidable by the minor. Without the guardian's signature, the department could not rely on the finality of any actions taken on a minor's claim. Our reasoning is set forth below.

Pursuant to statute, an employee with a claim for wages or transportation costs may assign the claim to the Department of Labor. AS 23.05.220; AS 23.10.110; AS 23.10.385. The department may then pursue a civil action against the employer to recover the wages or costs, and in addition, statutory penalties.

The validity of an assignment is governed by the same rules that govern the enforceability of contracts in general. McKnight v. Rice, Hoppner, Brown & Brunner, 678 P.2d 1330, 1334 n.3 (Alaska 1984) (citing Restatement (Second) of Contracts • 317 comment c (1981)). The Alaska Supreme Court has held that contracts entered into by minors are voidable by the minor. In RLR v. State, 487 P.2d 27, 34 (Alaska 1971), the court stated that an infant is capable of making "contracts binding on his promisee though voidable by the infant." See also Whitney-Fidalgo Seafoods, Inc. v. Beukers, 554 P.2d 250, 252-53, (Alaska

^{1/} The age of majority in Alaska is eighteen (18). AS 25.20.010.

1976) (contract between employer and minor in violation of child labor laws is voidable at the option of the minor).

Under AS 09.55.590, a minor who is 16 years of age or older may petition the court to have some or all of the disabilities of minority removed. The statute specifically provides that a minor who is fully emancipated has the capacity to contract. AS 09.55.590(g). In the absence of a court order declaring the minor emancipated, any contract executed by a minor will presumably be voidable under the decisions of the court cited above.

While the effect of voiding an assignment may vary with the circumstances, the fact that the minor has the power to void the assignment places a cloud of uncertainty over any actions taken by the department on the claim. This uncertainty may result in reluctance on the part of employers to settle these claims with the department. It could also expose the department to liability to the minor for actions taken on the claim. Restatement (Second) of Contracts • 7 Comment c (1981).

The right to control and manage a minor child's earnings and property lies with the parent or guardian. L.A.M. v. State, 547 P.2d 827, 832-33 n.13 (Alaska 1976); Lee v. Cox, 790 P.2d 1359, 1363 (Alaska 1990). This generally includes the authority to pursue a claim on the minor's behalf. See Alaskan Village, Inc. v. Smalley, 720 P.2d 945, 950 (Alaska 1986); Alaska R. Civ. P. 90.2(a)(1). The parent or guardian is, therefore, the appropriate person to assign the minor's claim to the department.

Based on these authorities, in our opinion, the department should require that assignments made by persons under eighteen (18), who are not emancipated, be signed by the parent or guardian. Failure to obtain the signature of the authorized adult will make the assignment subject to avoidance by the minor, thereby creating uncertainty in the ability of the department to act on the claim.

If you should have any questions regarding this opinion, please feel free to contact me.

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