

POLICY FOCUS

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Portable Benefits

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HIGHLIGHT

As more Americans seek flexible work arrangements, they're choosing options to secure benefits without sacrificing their independent contractor (or 1099) status. Policies that enable a flourishing portable benefits system allow workers to enjoy the best of both worlds. States and the private sector are innovating here, but policy reforms are needed to unleash these benefits for more workers.

INTRODUCTION

Traditional employment arrangements offer workers various types of benefits in exchange for their labor. Employers provide employees with wages or salaries and, typically, additional benefits such as health insurance, family benefits, paid time off, sick days, retirement plans, and disability insurance.

Despite the addition of valuable benefits, this employment model has drawbacks for workers. Because employee benefits are provided through their employer, employees tend to lose access to those perks and essential providers when their employment is terminated.

Under this employment model, many benefits are also off-limits to self-employed or independent workers. The federal [Fair Labor Standards Act \(FLSA\)](#) prevents employers from offering benefits to independent contractors (i.e., non-employees) or those employers risk having to reclassify those workers as employees and may face hefty fines for “misclassifying” them.

Freelancing and self-employment are long-standing work arrangements of the U.S. workforce, but innovation has also created new opportunities for independent work through apps and websites. Some [64 million](#) Americans engage in freelance work today compared to [3.4 million](#) in 1990. About [half](#) of freelancers are women, the majority of whom value flexibility as well as the income that independent work provides. Independent workers value the ability to work for whom they want, when, where, and how they choose; and they desire to maintain that independence and flexibility.

Written nearly a century ago, federal labor law supports the traditional employer-employee model. Over the decades, tax incentives and mandates were created to encourage employers to provide benefits to their workers. However, the federal and state regulatory regime is now outdated in light of new models of work and ill-suited to tackle the challenge of ensuring that self-employed and gig workers who desire benefits can secure them without losing their independent status.

States and the federal government should embrace labor law reforms that allow employers to offer benefits to independent contractors and other policies that encourage the creation of private portable benefit options. Voluntary portable benefits offer a path forward and untether access to benefits from traditional employment. Non-employees who are ineligible for employer-provided benefits

or workers whose employers do not provide specific benefits have an option. Growing in popularity, both private sector companies—such as [Stride](#)—and states like [Utah](#) are adopting models that remove legal barriers preventing companies from ensuring that their workforces have the needed protections and access to desired benefits.

PORTABLE BENEFITS

Unlike traditional employer-provided benefits, portable benefits are attached to a worker instead of a specific employer. This offers workers the ability to maintain coverage no matter how they choose to work or who pays them.

Some portable benefits have long existed. For example, individual retirement accounts (IRAs) are retirement vehicles for individuals that individuals and employers can contribute to or match but that stay with workers even if the employment relationship ends. Similarly, health savings accounts (HSAs) belong to employees and employers can contribute a limited amount each year, regardless of their employment status.

In a world with universal access to portable benefits, a woman moving between employee and self-employed statuses during different phases of her life would not face interruptions in health care. She could also keep and grow every dollar saved for retirement and accumulate the time needed for extended periods out of the workforce to raise kids. Such a flexible benefits model provides independent workers with economic security.

Portable Benefits in Action

The Aspen Institute’s Future of Work Initiative is a leader in designing portable benefits programs. It provides policy design questions for those

seeking to assemble a model that works for their unique state. According to [Aspen](#), there are generally two approaches: creating new portable benefits or expanding eligibility for existing benefits to independent contractors.

While there is room for innovation of portable benefits models, approaches that expand the scope and size of government undermine fiscal responsibility and freedom for employers. We believe that states should reform their laws to permit portable benefits plans. The plans should be voluntary to provide states and employers the greatest flexibility in determining whether and which benefits to provide to independent contractors in their workforce.

Our nation's fiscal future is already tenuous due to unfunded entitlement programs. Portable benefits should not become a new entitlement but rather a private, employer-offered option. To avoid increasing government bureaucracy, plans should be administered by the private sector. Taxpayers should not have

to shoulder the cost for these benefits, rather portable benefits programs should be funded by contractors and/or employers.

Both private companies and states have started to create or facilitate portable benefits plans providing a positive path forward for workers and society in general.

Unfortunately, instead of facilitating the creation of new options by removing the arcane legal barriers that prevent companies from providing portable benefits to independent workers, [some states](#) are opting to [reclassify](#) workers as employees. This is a devastating approach that undermines flexibility and worker freedom.

As of 2024, at least eight states have introduced portable benefits plans or expanded state-based benefits to independent contractors—including [Alabama](#), [Massachusetts](#), [Minnesota](#), [New Jersey](#), [Pennsylvania](#), [Virginia](#), [Washington](#), and [Wisconsin](#).

CASE STUDY #1: CALIFORNIA'S WRONG APPROACH

In 2019, California passed Assembly Bill 5 (AB5) which codified an [ABC test](#) as the new standard to determine if workers were independent contractors or employees. This was a more stringent standard that presumes workers are employees unless they fulfill all three criteria. AB5 effectively reclassified nearly all of the state's freelancers, self-employed professionals, and gig workers as employees.

Gig economy companies were the intended target; by forcing ridesharing companies to hire their independent drivers as employees, policymakers thought that those workers would gain access to benefits such as health care, paid leave, overtime, and unemployment benefits.

AB5 backfired. The Golden State's freelancers—in over [600 occupations](#)—lost incomes, contracts, gigs, and their livelihoods. Self-employment fell by [10.5 percent](#), and overall employment fell by 4.4 percent, especially in occupations overrepresented by self-employed workers, according to [research by the Mercatus Center](#). In addition, entire professions such as [transcriptionists](#) have disappeared and other professionals have moved out of the state.

In 2022, Californians overwhelmingly [passed](#) a ballot measure, Proposition 22, to exempt gig economy companies from AB5 while also providing limited benefits such as a health insurance stipend and a guaranteed earnings minimum. Still, many non-gig workers were not exempted and remain under AB5. California should serve as a cautionary tale for other states about the wrong way to try to extend benefits to independent workers.

CASE STUDY #2: UTAH'S RIGHT APPROACH

In March 2023, the Beehive State became the first in the U.S. to **establish** a benefits plan for independent contractors and gig workers. The **law** established a framework for government and private entities to offer flexible benefits services to independent contractors. This allows employees to contribute to a portable benefit plan created by companies, importantly **stating** that contributions are voluntary and can't be used to determine an individual's worker classification status. Benefits that can be accessed through this plan include health coverage, paid time off, long-term savings, and more.

A related bill, introduced this year, would **expand** on this by establishing an "independent contractor benefits tax credit" to establish two pathways for independent contractors and gig workers to obtain portable benefits. First, under Senate Bill 238, a hiring entity would be **eligible** for a nonrefundable 50 percent tax credit for contributions maxed at \$2,000 made to contractors, who can then **purchase** health plans of their choice. Second, if a hiring entity doesn't award contributions, an independent contractor **could** claim a tax credit if they buy portable benefits or basic insurance which would be tax-deductible as a business expense.

A note of caution: In designing benefits, some states have set minimum work hours to qualify for portable benefits. However, this will prevent independent workers from exploring this option. Independent work is often output-driven not time-driven. For example, an event planner who hires stay-at-home mothers for events may offer more work during the wedding season and no work during the off-season. If those mothers' access to benefits depends on hours worked, they may meet minimum requirements at some times and not others. Therefore, benefits should not be predicated on time.

The Private Sector is Innovating on Portable Benefits

If the government can't devise a voluntary portable benefits model, the private sector is fully capable of innovating here. Several nonprofits and companies are actively testing this model.

One of the earliest models came in 2008 when the Freelancers Union, an association of independent professionals, launched an insurance company to **establish** a portable benefits system for freelancers. In 2014, the organization expanded insurance offerings

under its **National Benefits Platform** to include health care, dental, vision, term life insurance, and liability insurance.

Stride is a private sector company developing portable benefits for freelancers as well.

Beneficiaries of Portable Benefits

Policymakers should be careful not to overstate the need for portable benefits to avoid creating wasteful programs or displacing options already available. The vast majority of independent contractors or gig workers use this work option as a "side hustle." It isn't their primary income source but rather supplements earnings from a traditional job so they likely already have access to employer-provided benefits.

For example, delivery platform DoorDash, which offers its independent contractor drivers portable benefits, **explained** that "the average Dasher spends less than 4 hours per week on delivery, and the vast majority of Dashers have other sources of income or responsibilities that already provide them with access to benefits like retirement savings or healthcare."

CASE STUDY #3: STRIDE

Financial technology company Stride [announced](#) a pilot portable benefits savings account program—Stride Contributions—for DoorDash drivers in Pennsylvania this past April. Eligible drivers can [apply](#) for insurance coverage and “emergency savings, time-off, sick leave, or long-term savings” through this pilot program. This experiment [ran](#) from April to September 2024. Should their findings prove successful, other states will likely replicate this partnership with DoorDash.

In October 2020, the same company [unveiled](#) a partnership with Mastercard cardholders who partake in independent work to offer them a menu of benefits ranging from health insurance to vision and dental, discounted telemedicine, and prescriptions. Users could access health insurance costing no more than “\$75 per month” with one in four users finding “health insurance for less than \$10 per month.”

However, an estimated [40 percent](#) of independent contractors do not have alternative employment. That means that potentially millions of these workers don’t have employer-provided benefits and would benefit from portable options.

Potentially millions of workers currently lack access to employer-provided employment benefits such as health insurance, workers’ compensation, and retirement benefits, because they are part-time employees or because they are independent contractors.

Pew Research Center found in 2021 that gig platform work is a side job for [68 percent](#) of gig workers and a primary job for just 31 percent of them. Gallup survey data from 2019 also found that [over half](#) of people who identified as self-employed also worked for an employer. In addition, nearly two out of three gig workers spent 10 hours or less a week through these engagements.

If independent work is not a person’s primary work arrangement, they likely have access to benefits from their traditional employment. Indeed, 34 percent of self-employed people said they had access to health insurance through an employer according to a 2019 [Gallup survey](#). About a similar share had access to retirement benefits. However,

about 29 million self-employed workers with a job lacked health insurance through that employer. Independent workers may also get coverage through spouses and family members.

Overall, most self-employed workers ([82 percent](#)) reported some form of health insurance coverage, which they could obtain via public programs, self-finance, or a partner or spouse’s employer in 2019 according to Census data.

The independent workforce also differs in each state. Data collection on independent workers in states is limited but, according to pre-pandemic [self-employment data collected](#) by Gallup and Intuit, “Florida, Georgia and Vermont have the highest rates of self-employment among all states, whereas Indiana, West Virginia and Wisconsin exhibit the lowest rates.” Each state should consider this when crafting a portable benefits plan.

Independent Contractors Support Portable Benefits

In surveys, independent workers express a desire to gain access to work-related benefits. According to research findings published in the *Journal of Economic Perspectives*, when researchers probed self-employed U.S. workers, [80 percent](#) liked the idea of

creating a portable benefits fund to help self-employed workers obtain health insurance and retirement savings. Among the array of benefits, U.S. independent workers prioritized health insurance above retirement savings.

Among gig economy workers, portable benefits are popular precisely because they don't require independent contractors to trade in flexibility and independence.

Eighty-five percent of Massachusetts app-based drivers support adding benefits without changing their status and believe it will improve their lives. Policies to make this happen are especially popular among women and delivery drivers with kids.

Ninety-two percent of female workers who shifted from full-time employment to independent contract work said they did so to prioritize flexibility over stability.

Reform the U.S. Tax Code & State Laws to Unleash Portable Benefits Systems

Legal and tax challenges prevent the creation of portable benefits for independent contractors. This is where reform is needed to spur innovation.

The most fundamental question is whether hiring entities can provide benefits for independent contractors. To enable this, policymakers must overcome regulatory and statutory hurdles. Existing language in the Internal Revenue Service (IRS) tax code ties benefits to "employee-employer" relationships and not to independent contractors. Guidance from the IRS **states**: "If you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor." As interpreted by the IRS, an employer that grants benefits to independent workers can be charged with misclassifying workers.

Employers also enjoy **preferential tax treatment** when providing health insurance to employees. Expenditures on health insurance and other benefits are exempt from federal income and payroll taxes. While this is a win-win for traditional employment, it makes it more difficult to pursue policies that separate benefits from traditional employment.

The federal government also plays a role in establishing independent contractor status for labor purposes. Under different administrations, the FLSA has been interpreted to loosen or tighten restrictions on independent contractor status. Until Congress resolves the ambiguity, independent contractors will remain in limbo and companies seeking to provide benefits could run afoul of the law.

Positively, bipartisan congressional efforts are underway such as the **Portable Benefits for Independent Workers Pilot Program Act** to provide grants to states and nonprofits to design, implement, and evaluate portable benefits models.

CONCLUSION

Today's economy allows workers to craft their desired careers while prioritizing the benefits they value. Laws and regulations have not kept pace with the changing models of work leaving benefits such as health insurance and retirement plans off limits for non-employees. The public and private sectors are innovating ways to offer the growing segment of nontraditional workers access to benefits. Smart reforms can ensure that independent workers, especially women, can enjoy freedom, flexibility, and economic security from benefits.

WHAT YOU CAN DO

Get Informed

Learn more about portable benefits. Visit:

- [Aspen Institute's Future of Work Initiative](#)
- [Mercatus Center](#)
- [National Conference of State Legislatures \(NCSL\)](#)

Talk to Your Friends

Help your friends and family understand these important issues. Share this information, tell them about what's going on, and encourage them to join you in getting involved.

Become a Leader in the Community

Start an Independent Women's Network chapter group so you can get together with friends each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

Connect with IWF! Follow us on:

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Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility. IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.