



POLICY SPOTLIGHT

Portable and Flexible Benefits: A Way Forward for Independent Workers

LIYA PALAGASHVILI | APRIL 2023

Federal agencies and state legislatures want to restrict the independent workforce—including freelancers, contractors, and gig workers—by moving to reclassify them as employees. These efforts, far from delivering intended gains, will harm this growing segment of the US labor force. Indeed, these changes might leave many workers with fewer job opportunities altogether.

Instead of restricting independent work, policymakers should provide independent contractors with more desirable options that will allow them to maintain their nontraditional arrangements while accessing work-related benefits. Embracing innovative reforms such as portable benefits—benefits that are not tied to a particular employer—will help both workers and employers seize more opportunities in this evolving economy. Recently, Utah became the first state to remove the presence of benefits as a factor in worker classification tests, opening the road for companies to provide benefits to independent workers without fear of penalties.

INDEPENDENT WORKERS WANT FLEXIBILITY

Today, 1-in-10 workers engage in independent work as their primary source of income, and 1-in-3 use it as a supplementary source of income.

- Most independent contractors (79 percent) prefer nontraditional work arrangements over traditional employment arrangement, because it provides more flexibility in terms of work schedule.
- Nearly half of independent contractors say this type of work gives them the flexibility they need to stay in the labor market, because they cannot take on traditional employment owing to personal circumstances, such as health issues or family obligations.
- Flexible work arrangements are transformative for women, who have been driving the growth of this

workforce. Restricting the legal classification of independent contractors to employees could disproportionately hinder women's participation in the labor force.

- Majority of gig works on platforms such as Uber and DoorDash are supplementary earners with full-time employment elsewhere. Uber drivers would require salaries almost twice their earnings to accept an inflexible schedule that may come with employment. And for the top 10 percent of DoorDash couriers, losing flexibility is equivalent to a 15 percent pay cut.

Flexibility is becoming increasingly beneficial to many working Americans. Our regulatory system must reflect this changed reality, where worker preferences have shifted and more value is placed on choice and portability. The current system prioritizes the immobility of benefits

(e.g., healthcare being tied to one employer), leaving independent workers without access to benefits afforded to traditional employees. This dissonance needs to be addressed.

MEETING THE NEEDS OF THE GROWING INDEPENDENT WORKFORCE

A high-profile survey finds that 80 percent of self-employed respondents would like access to flexible or portable benefits. But current laws, which were written a century ago, prohibit and discourage common workplace benefits from flowing to these workers.

Policymakers can make it easier for gig workers to access portable benefits by taking the following steps:

- *Primary step:* remove the presence of “benefits” from worker classification tests for independent contractors.
- *Secondary steps:* allow independent contractors to deduct healthcare and retirement contributions from their self-employment tax earnings calculations and allow Association Health Plans for independent contractors.

Three design principles would characterize this new approach: (1) participation is voluntary, (2) contributions come from multiple sources, and (3) benefits accounts are tied to the worker rather than to a specific company.

This approach would allow independent workers to have access to a fund or set of funds, administered by a third party, that permit contributions from different companies, organizations, or clients. Such funds could be in a cafeteria-style plan that would allow workers to purchase health insurance, retirement accounts, and education savings accounts like a 529 plan in a pre-tax manner.

KEY TAKEAWAY

Flexible work arrangements are beneficial for a growing segment of working Americans. Portable benefits are increasingly becoming the best solution for them to maintain their nontraditional work arrangements while also being able to access work-related benefits. Such benefits are the best sustainable solution in the long run if the nature of work continues to change and as flexible and diverse forms of work become the new norm.

FURTHER READING

Liya Palagashvili, “Utah’s Portable Benefits Bill: Supporting Gig Workers and the Independent Workforce” (Testimony before the Utah Senate Business and Labor Standing Committee, Mercatus Center at George Mason University, Arlington, VA, February 2023).

Liya Palagashvili, “Flexible Benefits for a Flexible Workforce: Unleashing Portable Benefits Solutions for Independent Workers and the Gig Economy” (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, February 2023).

Liya Palagashvili, “Consequences of Restricting Independent Work and the Gig Economy” (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, November 2022).

Liya Palagashvili, “Labor Department Ignores the Costs of Its New Rule for Independent Contractors,” *The Hill*, December 23, 2022.

Liya Palagashvili, “Four ‘Gig Work’ Misconceptions Driving Counterproductive Reforms,” *The Hill*, May 25, 2021.

Liya Palagashvili, “The Gig Economy Is Making the Future of Work Brighter for Women,” *Fortune*, May 13, 2021.

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