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POLICY SPOTLIGHT

Flexible Benefits for a Flexible Workforce

How State Policymakers Can Promote Benefits for Independent Workers

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Over a third of Americans earn income through independent contracting, freelancing, or gig work. The growth of this workforce has created policy challenges because independent workers lack access to traditional benefits available to W-2 employees—such as health insurance and retirement plans.

In response, the federal government and some state governments have acted to limit independent contracting by requiring the reclassification of independent workers as full-time employees. However, these reclassification policies often harm independent workers; most workers prefer to maintain their nontraditional work arrangements due to the flexibility they provide, rather than be forced into traditional employment.

The solution is to make benefits flexible, or portable, so they are not tied to a particular job or employer but travel with the worker. Here are seven state reforms that would increase access to flexible benefits for independent workers:

1. Stipulate that state agencies cannot use the presence of benefits to determine whether someone is an independent contractor or an employee.
2. Allow independent work and ensure that state regulators treat independent workers as such.
3. Adopt federally created Section 125 cafeteria plans for independent workers and exempt the contributions to these flexible benefits accounts from state income taxation.
4. Adopt federally created universal savings accounts and exempt them from state capital gains and income taxation.
5. Clarify that any individuals who are residents of the state can join to form their own group risk pools to buy insurance.
6. Allow independent contractors to buy into a company's insurance plan as if they are employees, without triggering an employment classification criterion.
7. Ensure that payments made by independent contractors or hiring parties toward health insurance products are not subject to state income taxation.

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