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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, as 80 percent of such 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. However, the current regulatory landscape restricts organizations from voluntarily providing benefits to independent workers. When a company provides benefits to an independent worker, the worker may be reclassified as an employee, which would result in the company incurring higher costs and misclassification penalties.

To address the regulatory barrier to flexible benefits, state legislators can stipulate that state agencies cannot use the presence of benefits to determine whether someone is an independent contractor or employee. This reform is highly popular with independent workers, as 80 percent would like access to flexible benefits.

States are already taking more interest in flexible approaches to benefits to address the needs of the growing independent workforce. In 2023, Utah became the first state to legalize access to benefits for independent workers by explicitly stating that state agencies cannot use benefits to decide whether someone is an independent worker.

This legal change paved the way for Target's delivery company Shipt and the ridesharing company Lyft to create the first voluntary benefits contribution programs. These programs allow independent workers to receive health coverage, paid time off, long-term savings, and other benefits typically extended to traditional employees. Other states—such as Pennsylvania, Georgia, Tennessee, and Alabama—are also showing how portable benefits can allow individuals to maintain their nontraditional work arrangements while accessing work-related benefits.

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