



**Testimony to the United States House of Representatives  
Committee on Education and the Workforce**

**Subcommittee on Workforce Protections**

**Hearing: "Unlocking Opportunity: Allowing Independent Contractors to  
Access Benefits"**

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Chairman Kiley, Ranking Member Adams, and members of the subcommittee, thank you for the opportunity to participate in today's hearing to explore portable benefits access for independent contractors (ICs).

My name is Gabriella Hoffman, and I am a senior policy analyst with the Independent Women's Forum's Center for Economic Opportunity. IWF is a non-profit organization that advances policies that enhance people's freedom, opportunities, and well-being. My work has chiefly focused on exploring opportunities for independent contractors. I am also an award-winning freelance writer and media strategist who has personally benefited from independent contracting opportunities.

Today, 64 million Americans partake in full-time, part-time, or occasional freelance work.<sup>1</sup> It's estimated half of the U.S. workforce—or 86.5 million individuals—will partake in flexible work by 2027.<sup>2</sup> These workers

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<sup>1</sup> "Freelance Forward 2023." Upwork.com, 12 Dec. 2023, <https://www.upwork.com/research/freelance-forward-2023-research-report>.

<sup>2</sup> Kaufman, Micha. "Opinion: More than Half of the U.S. Labor Force Will Be Freelance by 2027. Here's Why That's a Good Thing for Workers and Businesses Alike." *Marketwatch.com*, 22 Aug. 2022, <https://www.marketwatch.com/story/more-than-half-of-the-u-s-labor-force-will-be-freelance-by-2027-heres-why-that-s-a-good-thing-for-workers-and-businesses-alike-11661178674>.

overwhelmingly desire to maintain their independence<sup>3</sup> and don't self-identify as traditional W-2 employees.<sup>4</sup> Nevertheless, regulators frequently target these individuals using worker classification tests intended to force them back into employee arrangements, alleging they don't have access to employment benefits like health insurance. They believe they know what's best for these workers, but let's put that hubris aside.

Per the Internal Revenue Service (IRS), benefits are characteristic of "employee-employer" relationships and not employer-contractor ones.<sup>5</sup> Employers can't grant benefits to non-employees, or they risk being accused of engaging in worker misclassification.<sup>6</sup>

To deter forced reclassification while preserving worker flexibility, policymakers should create a voluntary portable benefits system that decouples benefits like health insurance from traditional employment.<sup>7</sup>

Accordingly, my testimony will explore the following:

- Distinguishing portable vs. traditional employer benefits
- What a portable benefits program for independent and gig workers looks like
- An inaugural portable benefits program for 1099 workers established in Utah
- Potential public and private reforms to unleash portable benefits options for independent contractors

## **Portable Benefits vs. Traditional Employer Benefits**

Traditional employer benefits are offered to full-time and sometimes part-time employees by employers in the form of retirement savings

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<sup>3</sup> "State of Independence in America Report 2023." *MBO Partners*, <https://www.mbopartners.com/state-of-independence/>, Accessed 5 Apr. 2024.

<sup>4</sup> "Contingent and Alternative Employment Arrangements News Release." *Bureau of Labor Statistics*, 7 June 2018, <https://www.bls.gov/news.release/conemp.htm>.

<sup>5</sup> Palagashvili, Liya. "Flexible Benefits for a Flexible Workforce: Unleashing Portable Benefits Solutions for Independent Workers and the Gig Economy." *Mercatus.org*, 3 Feb. 2023, <https://www.mercatus.org/research/policy-briefs/unleashing-portable-benefits-solutions>.

<sup>6</sup> "Type of Relationship." *Irs.gov*, <https://www.irs.gov/businesses/small-businesses-self-employed/type-of-relationship>. Accessed 6 Apr. 2024.

<sup>7</sup> "Let's Address the Real Challenges for Independent Contractors and Gig Workers." *Labor Market Matters*, 1 Feb. 2024, [https://liyapalagashvili.substack.com/p/lets-address-the-real-challenges?utm\\_source=post-email-title&publication\\_id=1286060&post\\_id=141135396&utm\\_campaign=email-post-title&isFreemail=true&r=lv9vdy&utm\\_medium=email](https://liyapalagashvili.substack.com/p/lets-address-the-real-challenges?utm_source=post-email-title&publication_id=1286060&post_id=141135396&utm_campaign=email-post-title&isFreemail=true&r=lv9vdy&utm_medium=email).

accounts, health care, paid time off, and life insurance. Employers typically offer employees limited choices, a few health insurance packages, and one or two retirement savings options. When the employee's relationship with the employer ends, so does his or her access to these benefit programs.

In contrast, portable benefits typically follow the worker and not the employer. This allows workers to take benefits they've accrued at their current job to a new one without losing coverage.<sup>8</sup>

Certain benefits could be made portable such as 401(k)s, health insurance, life insurance, or health savings accounts (HSA).

### **Independent Contractors Support Portable Benefits**

The Journal of Economic Perspectives found that 80% of self-employed U.S. workers would support a voluntary portable benefits program.<sup>9</sup> A March 2023 survey found that 85% of Massachusetts ride-share drivers support these measures.<sup>10</sup>

The National Conference of State Legislatures (NCSL) determined most 1099 workers are ineligible for benefits like “paid sick leave, workers’ compensation, retirement plans, and health insurance.”<sup>11</sup> Some reformers see this as evidence that independent workers need to be forced into W-2 roles. But there is a better solution—portable benefits—that would allow workers to keep the independence they value without missing out on benefits.

While some self-employed workers forgo benefits like health insurance, many do secure coverage on their own or get coverage through spouses and family members.

<sup>8</sup> Foster, Natalie. “Designing Portable Benefits: A Resource Guide for Policymakers.” *The Aspen Institute*, 6 June 2019, <https://www.aspeninstitute.org/publications/designing-portable-benefits/>.

<sup>9</sup> Boeri, Tito, et al. “Solo Self-Employment and Alternative Work Arrangements: A Cross-Country Perspective on the Changing Composition of Jobs.” *The Journal of Economic Perspectives: A Journal of the American Economic Association*, vol. 34, no. 1, 2020, pp. 170–195, <https://doi.org/10.1257/jep.34.1.170>.

<sup>10</sup> “85% of Massachusetts App-Based Rideshare and Food Delivery Drivers Support Legislation That Protects Their Independent Contractor Status, and Includes New Benefits.” *Mass Coalition for Independent Work*, Massachusetts Coalition for Independent Work, 5 Apr. 2023, <https://independentmass.org/news/driver-poll-2023/>.

<sup>11</sup> “Portable Benefits for Independent Contractors: A Framework for State Policymaking.” *Ncsl.org*, <https://www.ncsl.org/labor-and-employment/portable-benefits-for-independent-contractors-a-framework-for-state-policy-making>. Accessed 6 Apr. 2024.

About 25% of freelance workers don't possess health benefits but could be open to obtaining them through a voluntary portable benefits program.<sup>12</sup>

Given the success of portable benefits for employees, the model could be replicated for independent contractors and gig workers considering benefits.

### **UT Approves First Portable Benefits Plan for ICs, Other States to Follow**

States, including Utah, are already adopting the portable benefits model for freelancers.

In March 2023, the Beehive State became the first in the U.S. to create a voluntary portable benefits plan for independent contractors and gig workers.<sup>13</sup> The law states that portable benefit plan contributions are voluntary and can't be used to determine an individual's worker classification status.<sup>14</sup> 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.<sup>15</sup>

First, under Senate Bill 238, a hiring entity would be eligible for a nonrefundable 50% tax credit for contributions maxed at \$2,000 made to contractors,<sup>16</sup> who can then purchase health plans of their choice.<sup>17</sup> Second, if a hiring entity doesn't award contributions an independent contractor could "claim 4.65% of up to \$2,000 in payments made for portable benefit coverage or other insurance coverage" which would be tax-deductible as a business expense.<sup>18</sup>

Utah isn't the only state exploring portable benefits for independent contractors. Similar proposals have been introduced and debated in

<sup>12</sup> Berkowitz, Seth A., et al. "Health Insurance Coverage and Self-employment." *Health Services Research*, vol. 56, no. 2, 2021, pp. 247-255, <https://doi.org/10.1111/1475-6773.13598>.

<sup>13</sup> "Liya Palagashvili: Utah Is the First State to Truly Welcome the Gig Economy." *The Salt Lake Tribune*, The Salt Lake Tribune, 6 Apr. 2023, <https://www.sltrib.com/opinion/commentary/2023/04/06/liya-palagashvili-utah-is-first>

<sup>14</sup> "SB0233." *Utah.gov*, <https://le.utah.gov/~2023/bills/static/SB0233.html>. Accessed 5 Apr. 2024.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> "SB 238: Better Benefits for Independent Contractors." *Libertas Institute - Changing Hearts, Minds, and Laws*, Libertas Institute, 14 Feb. 2024, <https://libertas.org/bill/sb-238-better-benefits-for-independent-contractors/>.

<sup>18</sup> Ibid.

Massachusetts,<sup>19</sup> Minnesota,<sup>20</sup> New Jersey,<sup>21</sup> Virginia,<sup>22</sup> West Virginia,<sup>23</sup> and Wisconsin.<sup>24</sup>

In 2022, Washington State established a portable benefits program for ride-share drivers, who are independent contractors.<sup>25</sup> Following the disastrous rollout of California's ABC test that forcibly reclassified most Golden State independent workers as traditional employees, Californians supported a ballot measure to allow ride-share drivers to keep their independent status while enjoying access to limited benefits.<sup>26</sup>

Federal lawmakers have similarly mulled creating a portable benefits program grant fund to "incentivize states, localities and nonprofit organizations to experiment with portable benefits models."<sup>27</sup>

## The Private Sector is Innovating on Portable Benefits Too

If the government refuses to modernize benefits, the free market is fully capable of developing and revolutionizing a voluntary portable benefits program.

In 2008, the Freelancers Union established the first-ever portable benefits system for freelancers under the Freelance Insurance Company to offer

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<sup>19</sup> "Hearing Details - Special Joint Committee on Initiative Petitions." *Malegislature.gov*, <https://malegislature.gov/Events/Hearings/Detail/4899>. Accessed 6 Apr. 2024.

<sup>20</sup> "SF 4513 as Introduced - 93rd Legislature (2023 - 2024)." *Revisor.mn.gov*, [https://www.revisor.mn.gov/bills/text.php?number=SF4513&version=latest&session=ls93&session\\_year=2024&session\\_number=0](https://www.revisor.mn.gov/bills/text.php?number=SF4513&version=latest&session=ls93&session_year=2024&session_number=0). Accessed 5 Apr. 2024.

<sup>21</sup> "Singleton Bill to Establish a System of Portable Benefits for Freelance Workers Passes Committee." *Insider NJ*, 25 Jan. 2024, <https://www.insidernj.com/press-release/singleton-bill-to-establish-a-system-of-portable-benefits-for-freelance-workers-passes-committee/>.

<sup>22</sup> "LIS > Bill Tracking > HB1160 > 2024 Session." *Virginia.gov*, <https://lis.virginia.gov/cgi-bin/legp604.exe?241+sum+HB1160>. Accessed 5 Apr. 2024.

<sup>23</sup> "Bill Tracking in West Virginia - HB 5244 (2024 Legislative Session) - FastDemocracy." *Fastdemocracy.com*, <https://fastdemocracy.com/bill-search/wv/2024/bills/WVB00027526/>. Accessed 5 Apr. 2024.

<sup>24</sup> "Wisconsin Legislature: SB559: Bill Text." *Wisconsin.gov*, <https://docs.legis.wisconsin.gov/2023/related/proposals/sb559>. Accessed 5 Apr. 2024.

<sup>25</sup> "How Lyft Is Helping Drivers Secure the Future of Work in Washington State." *Lyft.com*, <https://www.lyft.com/blog/posts/how-lyft-is-helping-drivers-secure-the-future-of-work-in-washington-state>. Accessed 5 Apr. 2024.

<sup>26</sup> Hoffman, Gabriella. "Rideshare Drivers Want to Remain Independent Contractors. California Should Get out of Their Way." *Orange County Register*, Orange County Register, 30 Mar. 2023, <https://www.ocregister.com/2023/03/30/rideshare-drivers-want-to-remain-independent-contractors-california-should-get-out-of-their-way/>.

<sup>27</sup> Mark R. Warner (D-VA), Todd Young (R-IN), U.S. Rep. Suzan DelBene (D-WA-01). "Lawmakers Reintroduce Bipartisan, Bicameral Legislation to Test Portable Benefits." *Senate.gov*, 18 May 2023, <https://www.warner.senate.gov/public/index.cfm/2023/5/lawmakers-reintroduce-bipartisan-bicameral-legislation-to-test-portable-benefits>.

benefits.<sup>28</sup> They expanded insurance offerings in 2014 with their National Benefits Platform to include health care, dental, vision, term life insurance, and liability insurance, for example.<sup>29</sup>

Last week, financial technology company Stride announced the establishment of a pilot portable benefits savings account program—Stride Contributions—for DoorDash drivers in Pennsylvania.<sup>30</sup> Eligible drivers can apply for insurance coverage and “emergency savings, time-off, sick leave, or long-term savings” through this first-of-its-kind program.<sup>31</sup> The pilot program is expected to run for six months, between now and September 2024.<sup>32</sup>

In October 2020, the same company announced a partnership with Mastercard cardholders who partake in independent contracting to offer them a menu of benefits ranging from health insurance to vision and dental to discounted telemedicine and prescriptions.<sup>33</sup> Users were able to access health insurance costing no more than “\$75 per month” with one in four users finding “health insurance for less than \$10 per month.”

## Conclusion

Independent contractors are their own best negotiators and are fully capable of securing their own benefits without the threat of forced reclassification into W-2 employee status.

To further unleash our economy’s economic potential, policymakers must bring labor and tax law into the 21st century to ensure all workers—not just employees—can have access to and pay into a benefits program should they choose.

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<sup>28</sup> Gelfand, Zac. “Freelance Benefits & Resources from Freelancers Union.” *OutVoice*, 15 Apr. 2021, <https://outvoice.com/blog/freelance-union-benefits/>.

<sup>29</sup> “Insurance.” *Freelancers Union*, <https://freelancersunion.org/insurance/>. Accessed 8 Apr. 2024.

<sup>30</sup> Stride Health. (2024, April 3). Stride launches first-ever independent worker contributions program for portable benefits. PR Newswire. <https://www.prnewswire.com/news-releases/stride-launches-first-ever-independent-worker-contributions-program-for-portable-benefits-302106507.html>

<sup>31</sup> Lang, Noah. “Introducing Stride Save\* with Contributions: The Future of Worker Benefits.” *Stride Blog*, 3 Apr. 2024, <https://blog.stridehealth.com/post/stride-save>.

<sup>32</sup> “DoorDash Announces Portable Benefits Savings Program For Dashers in Pennsylvania.” *DoorDash*, 3 Apr. 2024, <https://about.doordash.com/en-us/news/pa-portable-benefits-pilot>.

<sup>33</sup> Mastercard. “Mastercard and Stride Team up to Bring Portable Benefits to Gig and Independent Workers.” *Mastercard.com*, 15 Oct. 2020, <https://www.mastercard.com/news/press/2020/october/mastercard-and-stride-team-up-to-bring-portable-benefits-to-gig-and-independent-workers/>.

The federal government and states could explore options to exempt voluntary portable benefits contributors from employment classification tests as Utah has done. Encouraging the use of personal savings accounts—offered voluntarily through states or hiring entities—would give independent workers more assurances to comfortably pursue the 1099-worker lifestyle.

During my time as a full-time freelancer, I was empowered in my work and fully capable of obtaining benefits on my own accord without entities mandating choices. Flexibility and freedom are primary motivations to enter independent contractor work arrangements. But freelancers like me, regardless of whether they're full-time, part-time, or occasional freelancers, shouldn't have to choose between independence and securing benefits like basic dental, health, and vision coverage. More American workers will make the jump into flexible work arrangements if they know they will have some security with respect to benefits.

Ultimately we should work toward an economy and a health insurance system where all workers, regardless of their employment arrangement, have affordable, portable benefits that they can choose and control.

I thank the subcommittee for the opportunity to testify today and your willingness to educate the public about making portable benefits a viable option for independent contractors who desire them.