



**Testimony to the United States Senate
Health, Education, Labor and Pensions**

Hearing: "Freedom to Work: Unlocking Benefits for Independent Workers"

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Chairman Cassidy, Ranking Member Sanders, and Members of the Committee, thank you for inviting me to appear today.

My name is Patrice Onwuka, and I am the director of the Center for Economic Opportunity at Independent Women. We advance policies that enhance people's freedom, opportunities, and well-being. We have a special focus on women's opportunities and seeking ways to expand their labor force participation.

Independent workers value the ability to work for whom they want, when, where, and how they choose. Flexibility is a driving force for why millions of men and women choose to be freelancers, self-employed, and gig workers. Nearly half of all freelancers nationwide are women.

Many people prefer to work as independent contractors rather than employees to balance earning incomes with raising children, caregiving for aging parents, and managing their own health issues. Others find independent contracting as an entry point into entrepreneurship.

Companies and organizations are legally prohibited from offering employer-based benefits—such as healthcare, paid time off, and disability—to independent contractors, as they are non-employees. Other incentives for traditional employment have led to an overreliance on non-portable employer-provided health insurance and benefits in the workforce. This locks individuals into one job, creates economic and health vulnerability for some independent workers, and disincentivizes entrepreneurship.

Congress can overcome some of these challenges by:

- Avoiding mass reclassification of workers through stringent employment tests.
- Creating a safe harbor so that organizations or companies can offer benefits to independent contractors without triggering misclassification.
- Harmonizing the independent contractor definition across federal agencies with a clear and simple test, such as the standard implemented by the

Department of Labor at the start of 2021, to provide greater clarity on worker classification and certainty for independent workers.

I look forward to sharing more of this with you today.

Workforce Challenges

Traditional employment arrangements offer American workers benefits in addition to pay in exchange for their labor, including health insurance, family benefits, paid time off, sick days, retirement plans, and disability insurance.

Federal labor law supports the traditional employer-employee model. The federal Fair Labor Standards Act (FLSA) prevents employers from offering benefits to non-employees (independent contractors), or those employers risk having to reclassify those workers as employees. This can be costly for employers who face the penalty of expensive fines or hiring staff and raising their labor costs 20-30% or more.¹ Also, over the decades, tax incentives and mandates were created to encourage employers to provide benefits to their workers.

Today, employer-provided health care is the predominant source of health insurance in the United States for working-age adults. According to the U.S. Census Bureau, in 2023, two-thirds of adults were covered through private health insurance.² Employment-based insurance was the most common, covering 53.7% of the population, but nearly two out of three (62.9%) of all working-age adults.

Employer-based benefits serve many American workers, but are out of reach for those who choose to work as independent contractors.

Employees also tend to lose access to many employer-based benefits, such as health care, when their employment is terminated. This can be destabilizing, especially for workers with health issues or whose immediate family members are dependent on uninterrupted access to care.

This creates “job lock,” or a reluctance for workers to leave their jobs even when it is otherwise optimal to do so. Employees fear the possible loss of coverage due to pre-existing condition exclusions, loss of particular insurance plans, waiting periods on new jobs, and disruption in the continuity of care with their healthcare providers.

¹ Kate Conger and Noam Scheiber. “California Bill Makes App-Based Companies Treat Workers as Employees.” *The New York Times*, Sept. 11, 2019.
<https://www.nytimes.com/2019/09/11/technology/california-gig-economy-bill.html>.

² Katherine Keisler-Starkey and Lisa N. Bunch. “Health Insurance Coverage in the United States: 2023.” *United States Census Bureau*, Sept. 2024.
<https://www2.census.gov/library/publications/2024/demo/p60-284.pdf>.

Independent Contractor Status

Freelancing and self-employment are long-standing work arrangements of the U.S. workforce. Innovation has also created new opportunities for independent work through the gig economy.

In 2023, an estimated 70 million people freelanced.³ Unlike traditional employees, independent contractors (including freelancers, gig workers, and self-employed professionals) control when, where, and how they work. This flexibility is a top reason that contracting jobs are increasing in popularity, especially among women.

For some, independent contracting provides a means to balance caregiving for children or aging parents. Others may have health conditions that prevent them from working in traditional employment. Still others seek the freedom to pursue entrepreneurial endeavors or their passions.

Independent contractors overwhelmingly enjoy their independent status. In 2023, over 80% of independent contractors said they preferred their work arrangement over traditional employment, according to the Bureau of Labor Statistics.⁴ Nine out of ten female workers who shifted from full-time employment to independent contract work said they did so to prioritize flexibility over stability.

Flexible workers are not uniform in their needs for benefits. The vast majority of independent contractors or gig workers use this work arrangement for supplemental income; it isn't their primary income source. In 2021, the Pew Research Center found that 68% of gig workers use platforms for a side job compared to 31% who use them for primary work.⁵

So, they may already have access to employer-provided benefits. One-third (34%) of self-employed people indicated they had access to health insurance through an employer, according to a 2019 Gallup survey.⁶ Delivery platform DoorDash explained that "the average Dasher spends less than 4 hours per week on delivery, and the vast

³ "Stronger Together: State of Independence in America 2023." *MBO Partners*, 2023. https://info.mbopartners.com/rs/mbo/images/MBO_2023_State_of_Independence_Research_Report.pdf.

⁴ Bureau of Labor Statistics News Release. "Contingent and Alternative Employment Arrangements—July 2023." *U.S. Department of Labor*, Nov. 8, 2024. <https://www.bls.gov/news.release/pdf/conemp.pdf>.

⁵ Monica Anderson, Colleen McClain, Michelle Faverio, and Risa Gelles-Watnick. "The State of Gig Work in 2021." *Pew Research Center*, Dec. 8, 2021. <https://www.pewresearch.org/internet/2021/12/08/the-state-of-gig-work-in-2021/>.

⁶ Jonathan Rothwell and Jessica Harlan. "Gig Economy and Self-Employment Report." *Intuit QuickBooks*, 2019. <https://quickbooks.intuit.com/content/dam/intuit/quickbooks/Gig-Economy-Self-Employment-Report-2019.pdf>.

majority of Dashers have other sources of income or responsibilities that already provide them with access to benefits like retirement savings or healthcare.”⁷

A meaningful share of independent contractors do not have alternative employment or spousal healthcare coverage and would benefit from some kind of option.

Entrepreneurship Stifled

America is the land of small businesses. The 35 million small businesses in our nation, about a third of which are women-owned, generate 44% of economic activity, and employ 46% of private sector employees.⁸ Our economy could be home to many more startups, partly because of “entrepreneurship lock.”

An offshoot of “job lock,” this occurs when would-be entrepreneurs choose not to start businesses because of their reliance on employer-provided benefits, particularly health insurance. A working parent, for example, would like to become self-employed but is discouraged from doing so because they have a family with healthcare needs.

Research confirms a correlation between healthcare coverage and entrepreneurship. One study found a larger negative effect on business creation among startup founders who gain healthcare coverage through their spouse than for those with spousal coverage.⁹

In a national survey examining the barriers to entrepreneurship for people who started the small business journey but ultimately abandoned the idea, 20% did so because they needed employer-provided health care.¹⁰ Women, even more than men (23% versus 16%), named this as a barrier to entrepreneurship.

In interviews with the Kauffman Foundation, women, racial minorities, and other underrepresented startup founders named access to quality, affordable health care as a challenge to starting their businesses.¹¹

⁷ “DoorDash Announces Portable Benefits Savings Program For Dashers in Pennsylvania.” *DoorDash*, Apr. 3, 2024. <https://about.doordash.com/en-us/news/pa-portable-benefits-pilot>.

⁸ “Frequently Asked Questions.” *Advocacy*, Jul. 2024. https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

⁹ Robert W. Fairlie, Kanika Kapur, and Susan Gates. “Is employer-based health insurance a barrier to entrepreneurship?” *Journal of Health Economics*, Jan. 2011, Vol. 30(1):146-162. <https://www.sciencedirect.com/science/article/abs/pii/S0167629610001207>.

¹⁰ Sameeksha Desai and Travis Howe. “Who Doesn’t Start A Business in America?” *Ewing Marion Kauffman Foundation*, 2020. <https://www.kauffman.org/wp-content/uploads/2020/12/Who-Doesnt-Start-A-Business-in-America-November-2020.pdf>.

¹¹ *Ibid.*

Mass Reclassification: The Wrong Solution

Some policymakers seek to expand healthcare benefits to independent contractors by forcing them to be reclassified as employees. This is an ill-advised approach that undermines workers' choices, freedoms, and labor attachment.

Changing the definition of independent contracting to be more restrictive creates undue hurdles for workers who choose not to, and in some cases cannot, work in traditional jobs.

Federal efforts, such as the Protecting the Right to Organize Act,¹² as well as the Department of Labor's independent contractor rule finalized in 2023,¹³ utilize a stringent ABC test or multifactor tests that increase complexity and uncertainty over independent contractor status. They are modeled after or inspired by California's infamous Assembly Bill 5 (AB5).¹⁴

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 healthcare, paid leave, overtime, and unemployment benefits.

In 2019, the California legislature passed AB5, which required that employers prove they meet the ABC test for their workers to be lawfully classified as independent contractors. The assumption that businesses would simply hire their contracted workforce as employees, offering them benefits, did not materialize.

AB5 spawned the loss of income, contracts, and livelihoods for freelancers in over 600 occupations.¹⁵ In California, self-employment fell by 10.5%, and overall employment fell by 4.4%, according to research at the Mercatus Center.¹⁶

In addition, entire professions have disappeared, and other professionals have moved out of the state. Consider the extinction of transcriber work. Jessica Tucker, of Loma

¹² "Richard L. Trumka Protecting the Right to Organize Act of 2025 - H.R.20." *119th Congress, United States House of Representatives*. <https://www.congress.gov/bill/119th-congress/house-bill/20>.

¹³ Patrice Onwuka. "5 Things To Know About The Devastating New Independent Contractor Rule." *Independent Women's Forum*, Feb. 6, 2024. <https://www.iwf.org/2024/02/06/5-things-independent-contractor-rule/>.

¹⁴ Patrice Onwuka. "Policy Focus: The Threat to Independent Contracting: AB5." *Independent Women's Forum*, Feb. 21, 2020. <https://www.iwf.org/2020/02/21/policy-focus-the-threat-to-independent-contracting-ab-5/>.

¹⁵ "AB5 Personal Stories." *Freelancers Against AB5*, accessed Jul. 15, 2025. <https://rolls.bubblup.com/Anderson/AB5-Personal-Stories>.

¹⁶ Liya Palagashvili, Paola Suarez, Christopher M. Kaiser, and Vitor Melo. "Assessing the Impact of Worker Reclassification: Employment Outcomes Post-California AB5." *Mercatus Center*, Jan. 31, 2024. <https://www.mercatus.org/research/working-papers/assessing-impact-worker-reclassification-employment-outcomes-post>.

Linda, CA, once thrived, earning \$60 an hour for her transcription services while working at home, pursuing a master's degree, and raising two children.¹⁷ *"My gig was transcription, and I earned extra grocery, clothes, and spending money. I did this for over five years, happily reporting income to the IRS."* She noted, *"AB5 took this away completely, and my family has been struggling to put food on the table ever since. This law directly targeted marginalized women like myself."*

According to Independent Women's polling, Americans understand the folly of this approach and overwhelmingly oppose it.¹⁸ Some 82% of women and overall voters, joined by 80% of young voters and 79% of seniors, indicated that the government should not force people to work 9-to-5 jobs, but instead allow people the flexibility to be independent contractors.

Portable Benefits: The Right Way Forward

Portable benefits are a game changer. These benefits are attached to a worker instead of a specific employer. Workers can access a variety of benefits—healthcare, disability, paid time off, etc.—and maintain coverage no matter how they choose to work or who contracts them. Their clients can pay contributions into individual benefits accounts that can be administered by states or third parties. Workers have the option to select the benefits they need.

However, federal law prohibits companies from offering benefits to their independent contractor workforce. By creating a safe harbor in federal and state laws and regulations, organizations, companies, or individuals can offer portable benefits to independent contractors without triggering their reclassification as employees.

Independent contractors overwhelmingly support portable benefits. Some 80% of self-employed workers like the idea of creating a portable benefits fund to help such workers obtain health insurance and retirement savings.¹⁹ Among app-based drivers in Massachusetts, 85% support adding benefits without changing their status and believe it will improve their lives.²⁰ The general public also overwhelmingly supports

¹⁷ Karen Anderson. "How California's AB5 Law Has Destroyed Women's Livelihoods In The Freelance Transcription Profession." *Independent Women's Forum*, Sept. 7, 2022. <https://www.iwf.org/2022/09/07/how-californias-ab5-law-has-destroyed-womens-livelihoods-in-the-freelance-transcription-profession/>.

¹⁸ "New Poll: 82% of Women Say Government Should Not Force Them into 9-to-5 Jobs." *Independent Women's Forum*, accessed Jul. 15, 2025. <https://www.iwf.org/independent-contractor-polling/>.

¹⁹ Tito Boeri, Giulia Giupponi, Alan B. Krueger, and Stephen Machin. "Solo Self-Employment and Alternative Work Arrangements: A Cross-Country Perspective on the Changing Composition of Jobs." *Journal of Economic Perspectives*, 2020, Vol. 34(1):170-195. <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.34.1.170>.

²⁰ "Key findings from March survey of app-based drivers." *Beacon Research*, Mar. 31, 2023. <https://www.politico.com/f/?id=00000187-4f84-d820-a7e7-6f8412870000#:~:text=An%20overwhelming%20majority%20of%20drivers.account%20as%20a%20positive%20change..>

portable benefits. According to Independent Women's polling, 89% of seniors and 87% of women and 83% of adults overall indicated that the government should make it easier for independent contractors and others without traditional employment to get affordable health insurance and other benefits.²¹

A growing bipartisan wave of states innovating portable benefits is rippling across the country. These are voluntary programs aiming to meet the needs of the freelance and gig workforce in each state:

Utah

In March 2023, Utah became the first in the U.S. to establish a framework for government and private entities to offer flexible benefits services to independent contractors.²² The law states that contributions are voluntary and can't be used to determine an individual's worker classification status. Through portable benefits plans, workers can access health coverage, paid time off, long-term savings, and more.

Stride, a portable benefits provider, partnered with Shipt (Target-owned delivery service) to launch Utah's first program, contributing to shoppers' benefit accounts based on app earnings for health, vision, dental, savings, and tax guidance.

Stride also partnered with ridesharing company Lyft for Utah drivers starting January 1, 2025. Lyft contributes 7% of eligible drivers' quarterly earnings (excluding tips) to Stride Save accounts for health, dental, vision insurance, retirement savings, or paid time off.

Pennsylvania

In April 2024, the gig company DoorDash partnered with Gov. Josh Shapiro to launch a six-month portable benefits pilot program for Pennsylvania DoorDashers.²³ The program provided 4% of pre-tip earnings for benefits like retirement, health insurance, and paid time off. It was extended to March 2025.

²¹ Infographic. "New Poll: 82% of Women Say: Government SHOULD NOT Force Them into 9-to-5 Jobs." *Independent Women's Forum*, accessed Jul. 15, 2025.
https://www.iwf.org/wp-content/uploads/2025/05/Independent-Contractor-Polling_OnePager.pdf.

²² Liya Palagashvili. "Barriers to Portable Benefits Solutions for Gig Economy Workers." *The Center for Growth and Opportunity at Utah State University*, Oct. 21, 2020.
<https://www.thecgo.org/research/barriers-to-portable-benefits-solutions-for-gig-economy-workers/>.

²³ "Portable Benefits for Gig-Workers." *Commonwealth Foundation*, Apr. 23, 2025.
<https://commonwealthfoundation.org/research/portable-benefits-for-gig-workers/>.

About a quarter (23%) of Dashers were enrolled by July 31, 2024, with funds deposited into Stride Save accounts.

The most common withdrawals were for paid time off (31.6%) and emergency savings (20.9%), with over half of funds remaining in accounts by October 2024, averaging \$400 per participant. Pennsylvania's pilot is a modest experiment in providing gig worker benefits without sacrificing flexibility.

"It's how we started developing savings," said Hector Soto, a PA DoorDash driver who spoke about the value of this flexible income and the portable benefits program during a congressional roundtable last month.²⁴ "It's really helped improve my quality of life."

In addition, Alabama,²⁵ Tennessee,²⁶ and Wisconsin have also passed similar laws in 2025,²⁷ permitting private contributions to independent contractor benefit accounts.

Changes at the state level must be paired with federal reforms. Congress must now ensure that no federal agency uses the presence of benefits to independent contractors in worker classification determinations. Otherwise, even if states pass portable benefits legislation, employers may forgo their use out of fear of penalty from the Department of Labor or the Internal Revenue Service, because they still consider the presence of benefits as a determinant of employee classification.

Key bills that would overcome these hurdles:

- The **Unlocking Benefits for Independent Workers Act** and,²⁸ similarly, the **Modern Worker Security Act** would create a safe harbor in federal law,²⁹ thereby clearing the way for portable benefits plans nationwide.

²⁴ Tom Shortell. "U.S. Rep. Ryan Mackenzie holds roundtable with gig workers as changes are weighed." *LehighValleyNews.com*, Jun. 20, 2025. <https://www.lehighvalleynews.com/state-regional-news/u-s-rep-ryan-mackenzie-holds-roundtable-with-gig-workers-as-changes-are-weighed>.

²⁵ "Portable Benefits Act (AL SB86)." *2025 Regular Session Alabama Legislature*, Apr. 10, 2025. <https://www.billtrack50.com/billdetail/1818908#:~:text=This%20act%20shall%20become%20effective,Apr%2D25%20By:%20Senator%20Orr>.

²⁶ "Voluntary Portable Benefit Plan Act (TN SB1377)." *114th Tennessee General Assembly*, Apr. 3, 2025. <https://www.billtrack50.com/billdetail/1822409>.

²⁷ "Assembly Bill 269." *2025-2026 Wisconsin Legislature*, Jun. 18, 2025. <https://docs.legis.wisconsin.gov/2025/proposals/ab269>.

²⁸ "Unlocking Benefits for Independent Workers Act." *119th Congress, Senate of the United States*. https://www.help.senate.gov/imo/media/doc/unlocking_benefits_for_independent_workers_act_text_1pdf.pdf.

²⁹ "The Modern Worker Security Act - H.R. 1320." *119th Congress, United States House of Representatives*. <https://www.congress.gov/bill/119th-congress/house-bill/1320>.

- The **Modern Worker Empowerment Act** would provide a clear and predictable test to determine worker classification under federal labor law.³⁰ The 2021 Trump Department of Labor rule that emphasized two "core" factors when determining independent contractor status (the nature and degree of the worker's control over the work and the worker's opportunity for profit or loss based on initiative, investment, or both) could serve as the standard to determine workers classification making it easier for businesses to classify workers as independent contractors.

Congress has also proposed other legislation to incentivize states to design, implement, and evaluate portable benefits models.

Conclusion

Our national policies must be updated to accommodate the needs of our dynamic economy as it generates new models of work. No worker should be forced into a traditional 9-to-5 job. She should be able to work as she chooses while enjoying greater economic security.

Policymakers have an opportunity to harmonize the independent contractor definition across federal law and agencies to protect flexible work arrangements and to unlock portable benefits for independent workers without triggering their reclassification.

³⁰ "Modern Worker Empowerment Act - S. 536." *117th Congress, Senate of the United States*. <https://www.congress.gov/bill/117th-congress/senate-bill/526>.