

Designing Portable Benefits

A Resource Guide for Policymakers



**By Libby Reder, Shelly Steward,
and Natalie Foster**

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About the Future of Work Initiative

The Aspen Institute Future of Work Initiative is a nonpartisan effort to identify concrete ways to address the challenges American workers and businesses face due to the changing nature of work in the 21st century. Established in 2015, the Initiative is driven by the leadership of Honorary Co-Chairs Senator Mark R. Warner and Purdue University President and former Governor of Indiana Mitch Daniels, and Co-Chairs John Bridgeland and Bruce Reed. Executive Director Alastair Fitzpayne leads an Aspen Institute staff, based in Washington, DC.

To learn more, visit www.aspeninstitute.org/futureofwork.

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Executive Summary


Millions of workers today lack benefits that are essential to financial security. Portable benefits promise to address this problem, improve the lives of workers, and strengthen the American economy.

Our System of Workplace Benefits Is Outdated and Inadequate

Benefits—including health care, retirement, workers’ compensation, and paid time off—are critical to household financial security. Through the 20th century, many U.S. workers received benefits coverage through their employers. This system evolved over time, a product of action, struggle and compromise between government, business, and labor leaders. As globalization, technology, and short-term financial pressures have transformed the economy, workers have been left behind. New hiring practices, including subcontracted, temporary, and other non-traditional forms of work, have resulted in jobs that offer fewer or no benefits. Today, more than one in ten workers rely on these types of work for their primary income, and at least as many engage in it as a supplemental income source. The relationship between workers and their employers has fractured, and the benefits historically associated with work are often unavailable. People across industries and work arrangements have experienced a decline in employer-provided benefits—including health insurance and retirement—at the same time they face stagnant wages and increased economic insecurity. These changes have been felt acutely by non-traditional workers, including temps, subcontracted workers, and independent contractors, whose access to workplace benefits remains significantly lower than those in traditional, full-time employment. Given the instability inherent to much of their work, non-traditional workers have a great need for workplace benefits, yet some of the lowest rates of coverage. A new system of portable benefits could allow work to provide security and a pathway to economic mobility.

Portable Benefits Promise to Bring Essential Benefits to More Workers

As a complement to the employer-provided benefits system, portable benefits are suited to today’s economy, and promise to extend benefits to more workers. Effective portable benefits models share three main characteristics: they are portable, prorated,



and universal. Portable benefits are connected to an individual, rather than a particular employer, and so they can be taken from job to job without interruption in coverage or loss of funding. Prorated benefits are those that are provided in proportion to work performed and can be funded from multiple sources. And universal benefits are accessible by all workers, regardless of work arrangement. Although they can take many forms, portable benefits share some key objectives:

- Improve individual and household financial security by creating a better system of benefits
- Create more equity between traditional and non-traditional workers
- Fuel a more dynamic labor market

The idea of portable benefits is not new. Rather, it builds on history and recent momentum. Social Security is an early example of a program that provides portable, prorated benefits that have become more universal over time with important eligibility reforms. The Affordable Care Act has demonstrated the value of making health coverage more portable. Particular industries, like construction and entertainment, have been providing benefits to a flexible and shifting workforce for decades. More recently, increasing numbers of policymakers across jurisdictions have expressed interest in and support for the idea.

Portable benefits make up one part of a comprehensive solution to address the insecurity facing workers in America. Other efforts, addressed alongside workplace benefits, are needed to sufficiently improve financial health and stability for non-traditional workers. Central among these are adequate pay, workplace protections against discrimination, worker organizing, and worker classification. As part of a comprehensive solution, portable benefits can bring financial security to workers in America and renew the promise of work for the 21st century.

Key Policy Design Questions to Consider

In order to develop effective portable benefits solutions, policymakers need to answer key design questions. There are a wide range of models, and the solution that is most feasible and effective in each case likely differs. Policymakers have two options in pursuing policy change in this area: creating entirely new portable benefits models, or expanding eligibility for existing or emerging benefits to more workers, including non-traditional workers. In order to develop the model that is best for their constituents, policymakers need to ask which benefits to include, who will be eligible for those benefits, how they will be funded, and who will administer them. Thoughtful consideration of these questions can ensure portable benefits models bring the right benefits to the right workers with adequate funding and responsible administration.

PORTABLE BENEFITS POLICY DESIGN QUESTIONS AT-A-GLANCE

DESIGN QUESTION	OPTIONS	CONSIDERATIONS
What benefits will be included?	<ul style="list-style-type: none"> • There is a wide range of possible benefits, from health insurance and retirement to training programs and childcare allowances. • Some benefits pool risk among participants, while others are held as individual accounts. 	<ul style="list-style-type: none"> • Which benefits do workers value most? • Which benefits could improve sustainability of public programs? • Should the inclusion of certain benefits be required or should benefits selection be left to designated administrators?
Who will be eligible for benefits?	<ul style="list-style-type: none"> • Workers in specific work arrangements, such as independent contractors or short-term workers • A subset of workers within an arrangement, such as online platform workers • Workers in specific industries or occupations 	<ul style="list-style-type: none"> • How does defining a population of workers impact how portable benefits are? • Should self-employed individuals and small businesses be able to opt in to coverage? • Should all eligible workers be required to participate?
How will benefits be funded?	<ul style="list-style-type: none"> • Employers • Customers • Government • Workers 	<ul style="list-style-type: none"> • What is the funding mechanism? • How do models relate to existing programs and regulatory frameworks? • Should contributions be mandatory or voluntary, particularly for employers and/or customers?
Who will administer the benefits?	<ul style="list-style-type: none"> • Government • Nonprofit • For-profit 	<ul style="list-style-type: none"> • Are administrators financially sustainable? • To whom do administrators have fiduciary duty? • Do workers have a voice in governance?



Policymakers Have a Clear Path Forward

Policymakers can move forward immediately; programs proposed and underway offer examples of concrete policy solutions. Additional steps can be taken to further inform current and future efforts to design portable benefits policy—including gathering information (through data collection and/or analysis), engaging stakeholders (either on an ad hoc basis or through a new, permanent role or structure), and encouraging innovation in the private and nonprofit sectors.

There are two approaches to pursuing policy change in this area: creating entirely new models, or increasing the universality of existing models. Designing a new system from the ground up, as proposed in Washington, New Jersey, and several other states, gives policymakers flexibility to consider design questions in a way that aligns to the reality of work today. In creating new models, policymakers may find it helpful to bring together employers and worker advocates to identify common ground, or to introduce a bill based on existing legislation in another state, such as New York's Black Car Fund. The other approach to designing portable benefits is to expand existing and emerging government programs to allow participation by all workers. Social insurance programs, like paid family and medical leave or Unemployment Insurance, and savings programs, like state-facilitated retirement accounts, can be expanded to serve a broader base of workers.


Our system of benefits is outdated and inadequate. The economy and the world have changed, and we need a new way of delivering benefits that brings security to all workers and equips them not just to weather these changes but to thrive today and into the future.



Introduction

Millions of workers in America do not have employer-provided benefits. These benefits are critical to individual and household financial security and, in their absence, workers and their families are at greater risk of income and expense volatility. Designing Portable Benefits: A Resource Guide for Policymakers proposes portable benefits to advance economic security for non-traditional workers. These benefits are portable, meaning they are connected to the individual, rather than a single employer, and can be taken from job to job without interruption in coverage or loss of funding; prorated, meaning they are provided in proportion to the amount of work performed and can be funded from multiple sources; and universal, meaning they are accessible to all types of workers, regardless of work arrangement.

In recent years, individual states and cities, worker advocacy organizations, entrepreneurs, and employers have experimented with portable benefits, building new models, and expanding existing programs to be more portable. These are critical first steps, but establishing a clear, shared set of expectations for workers and employers that both addresses key challenges and maintains sustainability moving forward will require additional policy innovations.



This Guide is meant primarily to support policymakers and their staff at the state and local level. Workers in every state across the country should have better access to benefits. Although a federal solution is ultimately preferable to a patchwork of state laws, experimentation at local levels can address specific needs, move forward relatively quickly, and identify promising solutions for federal consideration.

This Guide lays out the context for portable benefits, starting with how the changing nature of the relationship between employers and workers has impacted workers' access to benefits and benefits coverage. Then, it explores portable benefits as a potential solution, articulating key principles and objectives for any portable benefits model. The Guide examines four key design questions for policymakers to consider:

- What benefits will be provided?
- Who will be eligible?
- What type of entity will administer the benefits?
- How will benefits be funded?

To close, the Guide offers concrete next steps that policymakers can take to better understand the non-traditional work population in their city, state, or district; explore specific policy solutions to the challenges faced by that population; and support related innovation in the private and nonprofit sectors.

This paper also includes an Existing Models Guide that provides background on a range of portable benefits models mentioned throughout the paper that are up and running or have been proposed legislatively, with a brief description of the significance of each.

DEFINITIONS

When discussing work, word choice is both important and challenging. The language historically used to describe work does not neatly apply to the scope and nature of how people earn incomes today.¹ Given that consistent and clear definitions are needed to facilitate conversations about work today, here are the terms used throughout this paper, acknowledging that these terms may be imperfect in various ways:

- **Workers:** Individuals who earn income for labor performed. This includes those who perform labor across any work arrangement, including employees as well as independent contractors (sometimes referred to as the self-employed, sole proprietors, entrepreneurs, freelancers, or small-business owners).
- **Employers:** This term is used throughout the paper in its common speech meaning—one that employs or makes use of something or somebody, where “employs” means “to use or engage the services of”²—and not its legal meaning relative to worker classification.
- **Traditional work:** Permanent, full-time, year-round work, with workers classified as employees.
- **Non-traditional work:** Work that falls outside traditional work as defined above. This includes both independent contract work and employment that is part-time, short-term, subcontracted, on-call, or seasonal.

The terms “traditional” and “non-traditional” have the advantage of clearly dividing those who typically have employer-provided benefits from those who do not. These terms are not meant to make any normative judgment about types of work.

1 Abraham and Amaya. 2018. “[Probing for Informal Work Activity](#).” National Bureau of Economic Research.

2 Merriam-Webster Dictionary. “[Employer](#).” Accessed January 10, 2019.

WORKER CLASSIFICATION

The issue of worker classification is highly relevant to the issue of benefits because there is a significant discrepancy in benefits coverage between employees—especially full-time employees—and independent contractors.

Workers are classified as either employees or independent contractors. Typically, employees are hired to work directly for a company or individual, whereas independent contractors are hired to perform discrete services or tasks. **Employees** are covered by federal and state labor laws, including the Fair Labor Standards Act, which ensures minimum wage and overtime pay. Their employer withholds income taxes, pays payroll taxes on their behalf (including Social Security, Medicare, and state Unemployment Insurance), and issues a Form W-2 documenting their income annually. **Independent contractors** are not typically covered by federal or state labor laws. The company that hires them generally does not withhold taxes or make Social Security or Medicare contributions on their behalf. Independent contractors usually receive a Form 1099 from each company that hires them.

There is not one set of criteria used for determining whether a worker should be classified as an employee or an independent contractor. The Internal Revenue Service, the U.S. Department of Labor, and state Departments of Labor all offer guidance on how to classify workers. Although varying in specific criteria and level of complexity, all forms of guidance consider the degree of control the hiring party has in its relationship with the worker. In general, the more control the hiring party has, the more likely the worker should be classified as an employee rather than an independent contractor.


Misclassification is when a company hires a worker as an independent contractor, but in fact, the relationship with the worker is that between an employer and employee. Although hiring independent contractors can be less expensive for companies, if courts or government agencies determine a company has misclassified employees, the company faces fines and retroactive payments. A number of high-profile misclassification lawsuits in the past decade have drawn increased attention to the issue, including several addressing whether workers who arrange jobs through certain online platforms should be classified as employees or independent contractors.



SECTION 1

Problem: Our System of Benefits is Outdated and Inadequate

Today's world is fast-changing and unpredictable. Millions of workers lack essential benefits to help them cope with this reality and are left on their own to weather volatility and unexpected events. A generation ago, many workers in the U.S. accrued benefits through their jobs, including health insurance, retirement plans, workers' compensation, and training opportunities, among others. This system of workplace benefits developed through the second half of the 20th century, the product of collective action, compromise, and legislation. Rather than being developed as a comprehensive system rooted in any particular philosophy, this system of workplace benefits arose out of historically specific circumstances. Employers began offering health insurance, for example, during a federally



imposed pay freeze intended to prevent inflation in 1942. In order to attract and retain workers, companies offered health care plans—which had only been in existence for a decade—in lieu of raises.³

Together, a set of workplace benefits developed that provided security and stability, along with legal protections that were fought for by workers, advocates, and activists.⁴ They came to be seen as a suite, supported by government subsidies and mandates, and were a cornerstone of a social contract between workers and employers that had a role in strengthening America's middle class. Under this contract, employers saw workers as central to their profits and invested in their workforce to increase growth and improve retention. At the same time, workers saw their jobs as long-term sources of stability. This system allowed workers to access benefits, share risks, and gain financial security through their jobs.

But it was far from perfect, and many were—and continue to be—left out. Discrimination was codified in early social insurance programs, which explicitly excluded agricultural and domestic workers, who were disproportionately Black.⁵ Although these exclusions were removed in 1950, rates of coverage for employer-provided benefits were lower for non-white and female workers than for white and male workers through the 20th century. Over the past two decades, the racial benefits gap has widened, with Black and Hispanic workers increasingly less likely to have employer-provided health insurance, retirement plans, or other voluntary benefits.⁶

As we have entered a new century, the system of employer-provided benefits has failed to keep up with a range of changes and become even more inadequate. Globalization and technology have impacted the scale and pace of economic activity and increased competitive pressures on businesses. Employers have become more focused on short-term financial profits than long-term investments.⁷ Hiring practices and norms about companies' responsibilities to their workers have shifted.


3 Carroll. 2017. "[The Real Reason the U.S. Has Employer-Sponsored Health Insurance](#)." *New York Times*.

4 For example, the Fair Labor Standards Act of 1938 established the nation's first federal minimum wage and overtime rules, and the Civil Rights Act of 1964 prohibited discriminating against employees on the basis of sex, race, color, religion, sex, or national origin.

5 Historians and legal scholars have attributed the exclusion of these workers to an attempt to gain support of Southern politicians who did not want emerging social programs to benefit African Americans. See, for example: Katznelson. 2013. *Fear Itself: The New Deal and the Origins of Our Time*. Liveright.
Lieberman. 1995. "Race, Institutions, and the Administration of Public Policy." *Social Science History*.
Others have suggested that the exclusion was based on the administrative complexity of including these types of work. See DeWitt. 2010. "[The Decision to Exclude Agricultural and Domestic Workers from the 1935 Social Security Act](#)." *Social Security Bulletin*.

6 Kristal, Cohen, and Navot. 2018. "[Benefit Inequality among American Workers by Gender, Race, and Ethnicity, 1982–2015](#)." *Sociological Science*.

7 In recent years, both the academic and business communities have noted that corporate leaders are increasingly focusing on short-term returns for investors rather than long-term, sustainable growth through investment. Although the trend is contested in both communities, growth in shareholder payouts has been greater than growth in corporate investment, and investor time horizons have shortened in the past decade. See Mason. 2015. "[Understanding Short-Termism](#)." Roosevelt Institute.
Sampson and Shi. 2019. "[Are US firms becoming more short-term oriented? Evidence of shifting time horizons using investor expectations, 1980-2013](#)."



One of these shifts is the fissuring of work, an erosion of the relationship between workers and employers. This fissuring means that rather than hiring employees directly and investing in them over a career, companies use subcontracted firms, short-term contracts, and staffing agencies to meet labor needs in a flexible way.⁸ In some cases, companies retain employees who reflect their “core competencies,” while outsourcing or subcontracting non-core work, such as cleaning, logistics, or security. For example, a generation ago, janitors were typically direct employees of the companies whose facilities they cleaned. Today, they often work for a janitorial service company that holds contracts with any number of businesses.⁹ These workers may be dispatched to any of these businesses, where they do not have the same relationships with management, access to benefits, or opportunities for advancement as directly hired employees. In other cases, companies hire contracted or short-term workers for specific projects, even those who are core to the business, such as software engineers, designers, and those involved in management of the business itself. In management consulting, for example, senior advisors are brought in for short-term projects, consulting for one company, and then another.¹⁰ In addition to subcontracting and project-based hiring, entire business models have developed that rely on non-traditional workers carrying out discrete tasks, rather than an integrated team of permanent employees, such as platform-based rideshare and food delivery companies. All of these forms of non-traditional work represent a departure from the traditional model of employment that prevailed during the 20th century, and a reduction in the accountability between workers and employers. Even if highly compensated, these workers are contingent, responsible for individual projects or tasks, and quickly dismissable if a project falters or markets change.

More than one in ten workers rely on non-traditional arrangements for their primary job, according to the most recent Bureau of Labor Statistics estimate.¹¹ This segment, which has remained stable over recent decades, includes temporary help agency, subcontracted, and on-call workers, as well as independent contractors. It includes those who have long relied on non-traditional employment, like small farmers and independent craftspeople. It also includes newer technologically-facilitated work, like rideshare drivers.

8 Weil. 2014. *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It*. Harvard University Press.

9 See, for example: Irwin. 2017. [“To Understand Rising Inequality, Consider the Janitors at Two Top Companies, Then and Now.”](#) New York Times.

10 Hyman. 2018. *Temp: How American Work, American Business, and the American Dream Became Temporary*. Viking.

11 Bureau of Labor Statistics. 2018. [“Contingent and Alternative Employment Arrangements – May 2017.”](#) U.S. Department of Labor.

In addition to the tenth of workers engaged in non-traditional work as their main job, at least as many participate in these types of jobs on the side, earning income to supplement another source. More workers hold these supplemental jobs each year, meaning the portion of the workforce engaged in non-traditional work in any capacity—primary or supplemental—is growing.¹² Many of these workers are piecing together different types of work, combining them in order to make ends meet.¹³

FIGURE A: NON-TRADITIONAL WORK LANDSCAPE


Employment classification	Employee					Independent contractor
IRS designation	W-2					1099
Does worksite entity pay worker?	Yes, worker paid directly		No, worker employed and paid by intermediary		Varies	
Nature of work arrangement	Traditional worker	Non-traditional worker				
Bureau of Labor Statistics designation	Full-time	Part-time	On-call	Temporary help agency	Contract firm	Independent contractor
Representative occupations	<ul style="list-style-type: none">• Office clerk• Machine operator• Physician assistant• Flight attendant• Police officer• Accountant	<ul style="list-style-type: none">• Retail cashier• Bartender• Adjunct professor• Fitness instructor• Veterinary assistant	<ul style="list-style-type: none">• Substitute teacher• Farm laborer• Construction worker• On-call nurse• Ski instructor	<ul style="list-style-type: none">• Receptionist• Warehouse associate• Human resources specialist• Administrative assistant	<ul style="list-style-type: none">• Security guard• Janitor• Software developer• Hotel housekeeper• Landscape gardener	<ul style="list-style-type: none">• Real estate agent• Massage therapist• Rideshare driver• Musician• Childcare provider• Graphic designer• Hair stylist• Dog walker
Benefits	A range of benefits mandated by law; others voluntarily provided by employers.		Some benefits mandated by law; few benefits typically voluntarily provided by employers.			Few benefits mandated by law or voluntarily provided.

** For more on the benefits gap between traditional and non-traditional workers, see Figure B.*

12 Board of Governors of the Federal Reserve System. 2019. [“Report on the Economic Well-Being of U.S. Households in 2018.”](#)

Manyika et al. 2016. [“Independent work: Choice, necessity, and the gig economy.”](#) McKinsey Global Institute. Farrell, Greig, and Hamoudi. 2018. [“The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors.”](#) JPMorgan Chase Institute.

13 Accurately measuring the non-traditional workforce is notoriously difficult. Many of the terms and concepts historically used on surveys do not apply neatly to today’s work arrangements, and respondents answer inconsistently. See, for example, Abraham and Amaya. 2018. [“Probing for Informal Work Activity.”](#) National Bureau of Economic Research. The numbers presented here are best estimates given available data sources. To learn more, visit the Gig Economy Data Hub at www.gigeconomydata.org/.



Although non-traditional work can offer flexibility and low barriers to entry, these workers tend to earn less than workers hired in-house.¹⁴ In addition to lower wages, many non-traditional jobs come with unpredictability.¹⁵ Income tends to fluctuate month to month, making financial planning and saving difficult.¹⁶ Much of this work also lacks predictable scheduling, requiring workers, for example, to sign up for shifts when available or to come into work whenever called, often with little or no advance notice.

Although traditional forms of work are not disappearing, and are still how most people earn most of their income, non-traditional work embodies a widespread shift of risk from employers and government onto individuals and families.¹⁷ Across both traditional and non-traditional work arrangements, people are increasingly on their own to handle the financial risks of daily life and to build financial security.

Beyond evolving hiring practices, several troubling trends reflect this overall shift in risk over the past 40 years. Wages for non-supervisory workers, adjusting for inflation, have remained stagnant during this period.¹⁸ That means that even as our economy has grown, workers have brought home a smaller portion of total economic output.¹⁹ Over the same time period, the costs of basic necessities—housing, health care, and education—have skyrocketed.²⁰ These difficult financial realities mean that as of 2018, nearly 40 percent of Americans do not have enough savings to cover an unexpected \$400 emergency expense.²¹

At the same time that workers' economic position has worsened, their collective voice in the workplace has declined. Membership in labor unions has dropped precipitously over the past 40 years; only 10.5 percent of workers were union members in 2018, compared with 20.1 percent in 1983.²² Workers are increasingly on their own to weather changing workplaces.

14 Dube and Kaplan. 2010. "[Does Outsourcing Reduce Wages in the Low-Wage Service Occupations? Evidence from Janitors and Guards](#)." *ILR Review*.

Berlinski. 2007. "[Wages and Contracting Out: Does the Law of One Price Hold?](#)" *British Journal of Industrial Relations*.

15 Scheiber. 2017. "[Plugging Into the Gig Economy, From Home With a Headset](#)." *New York Times*.

16 Farrell and Greig. 2016. "[Paychecks, Paydays, and the Online Platform Economy](#)." JPMorgan Chase Institute.

Koustas. 2018. "[Consumption Insurance and Multiple Jobs: Evidence from Rideshare Drivers](#)." University of California, Berkeley.

17 Hacker. 2006. *The Great Risk Shift: The New Economic Insecurity and the Decline of the American Dream*. Oxford University Press.

18 DeSilver. 2018. "[For Most U.S. Workers, Real Wages Have Barely Budged in Decades](#)." Pew Research Center.

19 Bureau of Labor Statistics. 2016. "[Figure 1: Labor's Share of Output in the Nonfarm Business Sector, First Quarter 1947 Through Third Quarter 2016](#)." U.S. Department of Labor.

20 Vasquez. 2018. "[Mortgage Rates Are Pushing U.S. Homes Out of Reach](#)." *Bloomberg*.


Dieleman et al. 2017. "[Factors Associated With Increases in US Health Care Spending, 1996-2013](#)." *JAMA*.

The College Board. 2017. "[Trends in College Pricing](#)."

21 Board of Governors of the Federal Reserve System. 2018. "[Report on the Economic Well-Being of U.S. Households in 2017](#)."

22 The decline in union membership has occurred primarily among private-sector workers, whose membership rate was 6.4 percent in 2018, compared to 33.9 percent of public-sector workers.

Bureau of Labor Statistics. "[Union Members Summary](#)." U.S. Department of Labor. Released January 18, 2019.



In a world of short-term contracts, unpredictable scheduling and income volatility, workplace benefits hold the potential to mitigate uncertainty and offer financial security to today's workers. And yet the same trends that have heightened uncertainty—increasing competitive pressures, fissuring work, and declining worker voice—have corresponded to a decrease in workers' access to benefits. Over the past 30 years, workers across industries and work arrangements have experienced a decline in several essential employer-provided benefits. The share of workers covered by employer-sponsored health plans has fallen from 75 percent in 1991 to 62 percent in 2018 (despite the efficacy of the Affordable Care Act in expanding access rates overall).²³ In addition, individuals face higher out-of-pocket costs and deductibles than ever before, meaning even those with coverage are increasingly likely to face significant medical expenses.²⁴

There has also been a drastic shift in employer-provided retirement from defined benefit plans, which assure a particular payment during retirement, to defined contribution plans, which are dependent on employees' own savings. In 1991, more than half of workers had a defined benefit plan. As of 2018, just 22 percent did. Over the same period, the portion of workers with a defined contribution plan rose from 44 to 60 percent.²⁵ Defined contribution plans typically provide less long-term security and are particularly challenging for low-wage workers, who have few, if any, funds to contribute after covering basic living expenses. The share of workers with access to employer-provided retirement plans of any type—defined contribution or defined benefit—has decreased by 6 percent since 1991.²⁶

Beyond health insurance and retirement, trends in the provision of other benefits have been varied. Fewer workers have access to employer-sponsored life insurance or paid vacation. In recent years, workers have gained greater access to paid sick, family, and medical leave.²⁷ The availability of these benefits, like others, had begun to decrease by 1990. Increasing pressure from workers and advocates, though, pushed policymakers to intervene, and access to paid leave, in addition to temporary disability insurance, has increased over the past decade.²⁸ The overall trend in benefits, though, continues to increase the risks carried by individual workers.

This decline in coverage has been felt across income levels, industries, and work arrangements. However, there is a significant gap in benefits coverage between traditional and non-traditional workers. That means that as a larger portion of people engages in non-traditional work, more workers lack essential benefits. Since non-traditional workers are disproportionately people of color, this benefits gap is disproportionately experienced by non-white workers. In fact, the persistence and growth of the racial gap in benefits

23 Bureau of Labor Statistics. "[National Compensation Survey](#)." U.S. Department of Labor.

24 Blumenthal. 2017. "[The Decline of Employer-Sponsored Health Insurance](#)." *To the Point*, The Commonwealth Fund.

25 Bureau of Labor Statistics. "[National Compensation Survey](#)." U.S. Department of Labor.

26 Ibid.

27 Ibid.

28 Ansel. 2017. "[Has the momentum around paid leave reached a tipping point in the United States?](#)" Washington Center for Equitable Growth.

coverage described earlier has been attributed to the overrepresentation of non-white workers' concentration in non-traditional work arrangements.²⁹

For traditional, full-time employees, employer contributions to some benefits are legally mandated, including Social Security, workers' compensation, and health insurance.³⁰ Other benefits are often voluntarily provided by employers, including retirement plans, paid vacation, and paid family and medical leave. In all of these cases, benefits may be subsidized by the government, reducing costs for employers and workers.

Non-traditional workers who are classified as employees, including temp-agency and subcontracted workers, typically have access to legally mandated benefits, but have lower rates of access to voluntary benefits than do permanent, full-time employees.³¹ Significantly, both part-time and short-term employees are left out of health care mandates.

Independent contractors are at particular risk and in need of a system that provides benefits, because firms that hire them have no obligation to offer these workers the same benefits owed to employees and are concerned that doing so puts them at legal risk of worker misclassification.³² Independent contractors are able to access some benefits through public or private markets, including health plans (and subsidies for them) through the ACA exchanges, and self-funded retirement accounts, like IRAs, through private providers. In all types of work, some access health insurance through a spouse or family member, but these relationships are not a reliable source of coverage across the population. Figure B summarizes the discrepancies in benefit coverage between traditional and non-traditional workers, and shows the shortcomings of our current system.

We need a new system of benefits with delivery mechanisms that provide coverage to all workers. By developing benefits models that fit the nature of work in the 21st century and meet the needs of today's worker, policymakers can boost the financial security of workers and their households, and pave the way for sustainable and equitable economic growth.

29 Kristal, Cohen, and Navot. 2018. "[Benefit Inequality among American Workers by Gender, Race, and Ethnicity, 1982–2015](#)." *Sociological Science*.

30 Under the Affordable Care Act, employers with 50 or more full-time employees are required to offer health insurance that is affordable (less than or equal to 9.86 percent of income in 2019) and provides minimum value (covers at least 60 percent of costs) to 95 percent of their full-time employees, and their children up to age 26.

31 Bureau of Labor Statistics. 2018. "[Contingent and Alternative Employment Arrangements – May 2017](#)." U.S. Department of Labor.
Dube and Kaplan. 2010. "[Does Outsourcing Reduce Wages in the Low-Wage Service Occupations? Evidence from Janitors and Guards](#)." *ILR Review*.

32 Court cases have established the provision of benefits to be one factor in determining employment classification, meaning that companies hiring workers as independent contractors may make themselves more susceptible to misclassification charges should they provide benefits to independent contractors. For example, in *Nationwide Mutual Insurance Co. v. Darden*, 503 U.S. 318, 324 (1992), the U.S. Supreme Court found the provision of benefits to be one of 13 factors that could be used to identify whether a worker was an independent contractor or an employee.

FIGURE B: DO WORKERS RECEIVE BENEFITS FROM THEIR EMPLOYER?

BENEFITS (nonexhaustive)	TRADITIONAL WORKERS	NON-TRADITIONAL WORKERS	
	Permanent full-time employees	Other employees (part-time, short-term, subcontracted, on-call, or seasonal)	Independent contractors
Health insurance	Usually; required by federal law for employers with 50 or more full-time employees	Sometimes; part-time and short-term workers not included in mandate	Can access plans through ACA without employer contributions
Social Security/Medicare contributions	Yes; required by federal law	Yes; required by federal law	No employer/client contributions; worker pays both employer and employee contributions
Unemployment Insurance (UI)	Yes; required by state law in most states	Depends on state UI regulations	No
Sponsored retirement plan	Often; employer contributions not required	Sometimes; though employer contributions are rare	Rare; self-funded plans available
Workers' compensation	Yes; required by state laws*	Yes; required by state laws*	Rare
Temporary disability insurance	Often; required by law in some states	Unknown**	Rare; self-funded plans available
Life insurance	Often	Unknown**	Rare; self-funded plans available
Paid sick leave	Often; required in some states and cities	Unknown**	Rare
Paid family and medical leave	Unpaid leave required by federal law for employers with 50 or more full-time employees; paid leave required in some states	Both federal unpaid leave and state paid leave required for many but may be limited due to eligibility requirements	Rare; though able to opt in to some state programs
Paid vacation	Sometimes	Rare	Rare
Child care assistance	Rare	Rare	Rare
Emergency cash savings	Rare	Rare	Rare

* Except Texas

** Data on benefits coverage by work arrangement among those classified as employees is limited. Research suggests subcontracted employees are less likely to receive benefits than workers directly employed by their worksite.



SECTION 2

A Solution: Portable Benefits

A system of portable benefits promises to renew the promise of work and extend essential benefits to more workers in today's economy. With a portable system, any individual worker could access benefits, regardless of employment relationship, and those benefits could be funded by multiple sources. The defining characteristics of portable benefits are that they are portable, prorated, and universal.

PORTABLE, PRORATED, AND UNIVERSAL

Portable: Benefits are connected to an individual, rather than a single employer, and can be taken from job to job without interruption in coverage or loss of funding. Portability of benefits is critical, since many people switch jobs frequently, holding on average more than 11 over their careers,³³ and many hold multiple jobs simultaneously, often piecing together different work arrangements or earning supplemental income from side jobs.

Prorated: Benefits can be funded by contributions from a variety of sources, including multiple employers, customers, government, and workers themselves, either simultaneously or sequentially. Contributions can be allocated in proportion to hours worked or other relevant units of labor. If a worker has multiple employers, they can each contribute to benefits, meaning that workers can accrue not only income but also essential non-cash benefits across any work arrangements.


Universal: Benefits are accessible to all workers, regardless of hours worked or type of work arrangement.

All three of these concepts exist on a spectrum. Some benefits models are extremely *portable*; for example, contributions to social insurance programs follow workers to any job, while other models may only be portable across work within a particular industry. Similarly, some models are *universal*, or available to anyone, while others offer benefits within a more limited population as a step toward universality.

Portable benefits solutions share a few key objectives:

- **Improve individual and household financial security by creating a better system of benefits:** Portable benefits models aim to extend essential benefits to more workers. Work should be a source of security—an opportunity to share risks and ensure financial health, even in the case of an accident or unexpected event. Benefits often serve as a critical economic stabilizer, especially when paired with stable, sufficient pay. Yet, the current system provides benefits inconsistently. It disadvantages non-traditional workers and those with multiple or part-time jobs at a time when increasing numbers of workers in America rely on supplemental income sources. Expanding benefits coverage through portable benefits models drives greater individual and family financial security, and allows all work to provide greater

³³ From NLSY79. Based on a cohort born between 1957 and 1964. NLSY97 collects data from a cohort born between 1980 and 1984, and will provide comparable data when the respondents reach retirement age. Bureau of Labor Statistics. 2017. "[Number of Jobs, Labor Market Experience, and Earnings Growth Among Americans at 50: Results from a Longitudinal Survey](#)." U.S. Department of Labor. Released August 24, 2017.

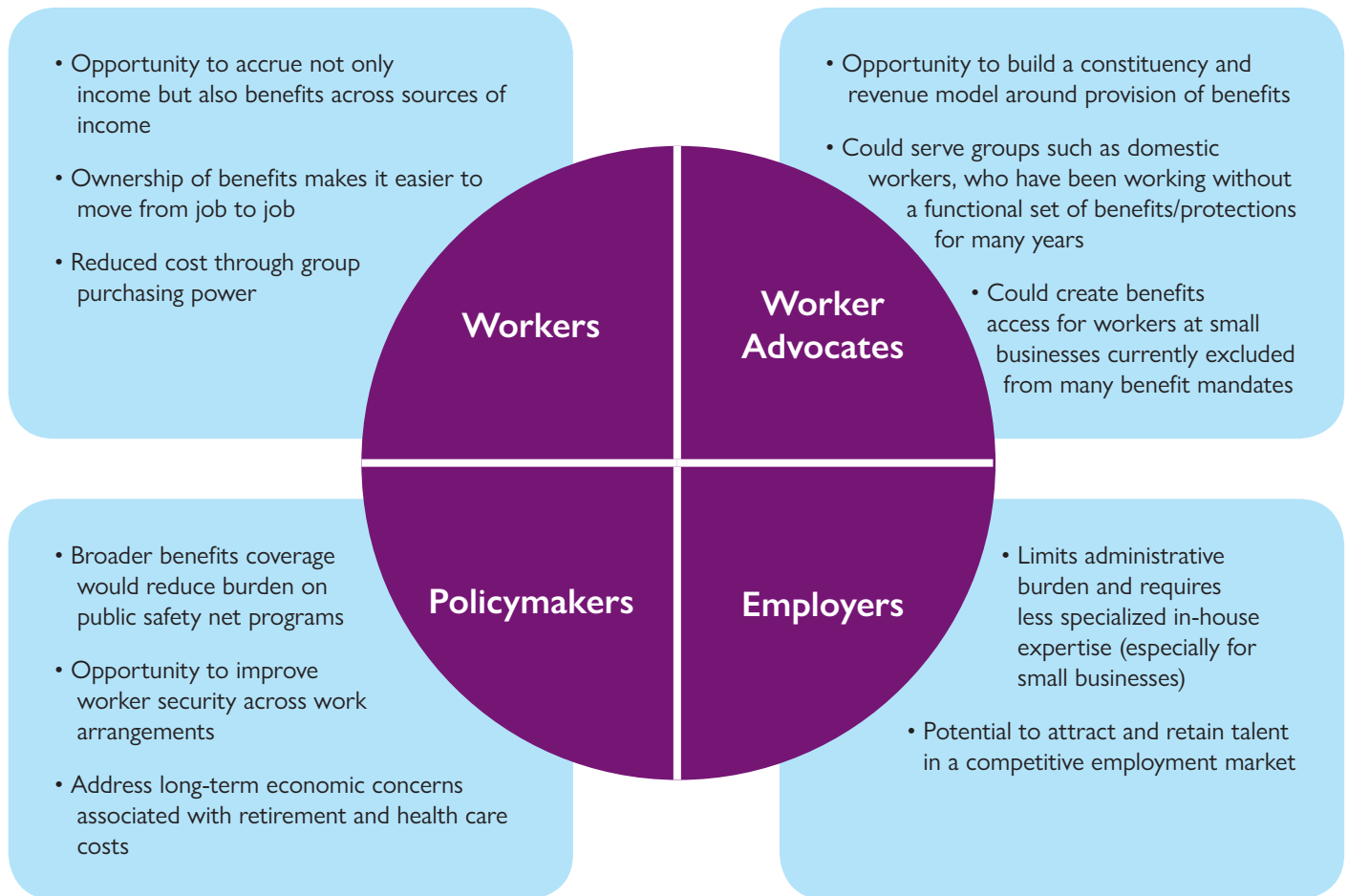


economic stability. Beyond helping those directly served, portable benefits hold the potential to advantage broader communities, as financially secure households contribute more to local economic growth and rely less on costly public safety net programs. In addition, by being involved in the design or administration of portable benefits, worker advocacy organizations can ensure workers' voices are represented, and that benefits are best suited to workers' needs. Such organizations may also derive revenue and expand membership through benefits administration that can be used to improve working conditions more broadly.

- **Create more equity between traditional and non-traditional workers:** Many companies currently have a strong financial incentive to hire workers as independent contractors, for whom they are not required to provide benefits. As a result, they may be tempted to misclassify workers as independent contractors who should—based on the nature of the work relationship—be classified as employees. Other non-traditional forms of work, including temp-agency and subcontracted positions, lack a strong, long-term relationship between workers and the place that they work, which can reduce companies' obligation to provide benefits. Thoughtfully designed portable benefits models—especially those that require employer contributions—could create more equity between traditional and non-traditional employees.
- **Fuel a more dynamic labor market:** Under the current system, many workers experience job lock—the inability or unwillingness to switch jobs due to the risk of losing essential benefits. With benefits that are portable across work arrangements, individuals have the protection they need to make a job change or take on an entrepreneurial endeavor. This promotes labor market dynamism—which, when matched with household financial security—benefits workers, employers, and the economy more broadly.


These objectives hold promise for a range of stakeholders—workers, worker advocates, employers, and policymakers—for reasons specific to their unique interests. Figure C summarizes how portable benefits can serve the interests of each of these groups.

**FIGURE C: PORTABLE BENEFITS MODELS APPEAL
ACROSS STAKEHOLDER GROUPS**



Approaches to Advancing Portable Benefits

There are two main approaches available to policymakers interested in advancing portable benefits. First, **policymakers could create a new portable benefits model from the ground up**. Policymakers in the state of Washington have proposed a model of this kind, built around a new mandated fee for companies that match workers with clients or customers, including online or app-based rideshare and freelancing platforms as well as more traditional offline agencies or services. The fee would fund portable benefits—workers' compensation coverage at minimum—for those workers. New models require designing parameters for eligibility and defining requirements for administering entities, which may be new or existing government agencies, worker representative organizations,



nonprofits, or for-profit companies. The [Washington proposal](#), for example, requires that benefits be administered by nonprofits with a fiduciary duty to act in the interest of beneficiaries. New models allow for substantial innovation and can be highly tailored to specific needs, but require patience, a spirit of experimentation, and substantial political will.

► For more information, see the [Existing Models Guide](#)

Second, **policymakers could expand eligibility for existing or emerging benefits to more workers, including non-traditional workers.** Revising current programs to be more portable, prorated, and universal can increase access to and quality of existing benefits, building on existing infrastructure. Emerging benefits, such as paid family and medical leave, are well suited for this approach, because policymakers can include non-traditional workers as part of the overall program design ahead of implementation. Existing programs can also be expanded. For example, Unemployment Insurance benefits are only available to workers classified as employees, explicitly excluding independent contractors. Although employees in part-time, seasonal, and other non-traditional employment can qualify, they are disadvantaged when it comes to coverage and benefits due to the program's structure. Expanding existing or emerging programs may be more straightforward initially as compared to designing an entirely new program, and could help provide a model for how to design benefits for the non-traditional workforce. However, addressing benefits in this way may not result in a complete set of essential benefits for non-traditional workers, and may result in a system that is unduly complex to manage.

The idea of portable benefits is not new. [Social Security](#) is an early example of a program that provides portable, prorated benefits that have become more universal over time with important eligibility reforms. Construction workers and Hollywood guilds have been providing benefits to a flexible and shifting workforce for decades.³⁴ The [Affordable Care Act](#) facilitated greater portability of health benefits for all workers.

In recent years, thought leaders and policymakers have given increased attention to portable benefits. Stakeholders from across sectors and across the political spectrum have voiced support. Author Steven Hill has written extensively about the advantages of portable benefits models, developing the idea of the “Individual Security Account.” Labor leader David Rolf and activist entrepreneur and investor Nick Hanauer published a seminal piece in *Democracy Journal* in 2015 outlining the case for “Shared Security Accounts.” Later that year, a cross-sector group of worker advocates, on-demand economy platforms, labor unions, venture capital investors, and thought leaders from across the political spectrum signed a public letter entitled “Common Ground for Independent Workers,” which identified design principles for a new portable safety net for those working in the gig economy. Meanwhile, policymakers both across the political spectrum—from Democratic U.S. Senators Mark Warner and Elizabeth Warren to Republican U.S. Senators Ben Sasse and Todd Young—and across the country—from California Democratic Governor Gavin

³⁴ Rolf, Clark, and Watterson Bryant. 2016. “[Portable Benefits in the 21st Century: Shaping a New System of Benefits for Independent Workers](#).” Aspen Institute Future of Work Initiative.

Newsom to Georgia State Senator Elena Parent and New Jersey State Senator Troy Singleton—have endorsed the concept.³⁵

Designing, funding, and creating access to portable benefits is one way to improve financial health and stability for non-traditional workers. However, achieving these outcomes will likely require work on additional fronts:

- **Wages/pay:** Wages and pay are a critical area of focus, especially for low- to moderate-income workers and for independent contractors who are excluded from most minimum wage laws. To date, policymakers in cities have led the way to create or extend pay standards for non-traditional workers: Seattle's City Council voted to extend the city's \$15 minimum wage to domestic workers and New York City recently implemented a pay standard for ride-hail drivers. Further, in the absence of broad policy change, major employers such as Google have begun to require their contracted staffing agencies to offer workers a minimum wage of \$15 per hour.³⁶ In another effort to ensure that non-traditional workers are paid fairly, advocates in New York, led by the Freelancers Union, have made great progress to ensure that freelancers can collect money they are owed through the passage of the Freelance Isn't Free Act.³⁷
- **Worker protections:** Traditional workers are entitled to certain protections under law, for example those related to harassment and discrimination, safe workplaces, and fair scheduling. In many cases, however, non-traditional workers are not covered by these protections. Independent contractors are particularly unlikely to work with these protections and some categories of non-traditional workers, such as domestic workers and agricultural workers, are explicitly excluded. Some policymakers are already working to change this. For example, at least five cities and one state have passed predictive scheduling laws to make sure that scheduled work is manageable for workers, especially those who work part-time and in other non-traditional work arrangements.³⁸ Several worker advocate organizations are working to extend anti-discrimination protections to independent contractors, building on and improving legislation existing in three states.³⁹
- **Worker organizing:** Many non-traditional workers are currently prohibited from organizing and lack the right to collectively bargain with employers. Labor


35 U.S. Senate. "[S.541 - Portable Benefits for Independent Workers Pilot Program Act.](#)" 116th Congress. Introduced February 25, 2019.
Office of U.S. Senator Elizabeth Warren. 2016. "[Senator Warren Lays Out Steps to Protect Workers in the 'Gig Economy.'](#)"
Los Angeles Times. 2018. "[Meet your next governor, California. Here's where Gavin Newsom stands on state issues.](#)"

36 De Vynck. 2018. "[Google to Require Contractors Get Health Care, Parental Leave.](#)" *Bloomberg*.

37 New York City Department of Consumer Affairs. "[Freelance Isn't Free Act.](#)" Accessed April 29, 2019.

38 Wolfe, Jones, and Cooper. 2018. "['Fair workweek' laws help more than 1.8 million workers.](#)" Economic Policy Institute.

39 Washington, California, and Pennsylvania have state laws that address harassment and discrimination of independent contractors to some degree.



organizations have argued that excluded non-traditional workers, such as independent contractors, agricultural workers, and domestic workers, should have the ability to organize and advocate for better terms and conditions more broadly. The City of Seattle adopted an ordinance in 2015 that requires rideshare platforms to collectively bargain with workers; those platforms have challenged the ordinance and the matter is still making its way through the courts. Short of a formal collective bargaining right, some non-traditional workers have come together to advocate for improved working conditions. For example, the Coalition of Immokalee Workers, a worker-led collective of tomato growers, has used supply chain pressure to significantly improve working conditions in the tomato fields of Florida.⁴⁰

- **Worker classification:** While classification has long been an important topic for workers and employers, the issue took on new prominence in the 1990s, as the U.S. Department of Labor and the Internal Revenue Service ramped up enforcement of these laws on the basis of lost revenue.⁴¹ More recently, the emergence of online platform models that rely on independent contractors has brought new focus to the criteria used by agencies and courts around the country to determine whether a worker is properly classified.

While these approaches hold potential to address the challenges of non-traditional workers in formal work relationships, those working under the table and in informal relationships may face different challenges that require additional consideration.

⁴⁰ Greenhouse. 2014. "[In Florida Tomato Fields, a Penny Buys Progress.](#)" *New York Times*.
Scheiber. 2019. "[Why Wendy's Is Facing Campus Protests \(It's About the Tomatoes\).](#)" *New York Times*.

⁴¹ Planmatics, Inc. 2000. "[Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs.](#)" Prepared for U.S. Department of Labor, Employment and Training Administration.




SECTION 3

Designing Portable Benefits: Key Questions for Policymakers

As policymakers and key stakeholders around the country consider ways to extend essential benefits to more people, there are several questions to answer in designing a portable benefits model. They include:

1. What benefits will be included?
2. Who will be eligible for benefits?
3. How will benefits be funded?
4. Who will administer the benefits?



Depending on the approach under consideration, some of these questions may be more important or relevant than others. The sections below explain these questions, provide potential answers, and highlight important considerations.

1. What Benefits Will Be Included?


Summary

The current system of workplace benefits consists of a wide range of benefits, from health insurance and retirement to training programs and childcare allowances. This landscape of benefits is highly inconsistent, varying by state, by employer, and often by worker. In deciding which benefits to offer, policymakers need to consider this complex landscape.

Options

There are two primary types of benefits: those that are risk-pooled and those that are held as individual accounts. In risk-pooled benefits, financial risk is shared among contributors. Typically, contributions are made into a shared pool on behalf of individuals, and those funds are used to cover expenses should the event insured against—such as an injury at work in the case of workers' compensation—occur. This is the premise of most types of insurance, both public and private. For example, drivers pay a regular premium into an auto insurance policy, and the relatively small number who experience an accident receive a payout to cover high and unexpected expenses. When benefits are offered as individual accounts, risks are not shared among contributors. Contributions remain attached to the individual, and in cases where an account cannot cover expenses, the individual remains liable for them. As policymakers design portable models, they need to consider the form that benefits might take. They may want to make a decision between types of benefits from the start; address this decision for specific benefits; or leave this decision to the administrator.

Most benefits can take any of these forms. Policy designers should be thoughtful about whether any new portable models shift the form of a specific benefit being offered. This is especially true for models that would shift typically risk-pooled benefits to individual account models—like a model that replaced risk-pooled health insurance with individualized health savings accounts tied to individual workers. Though an individual account model will offer more security than no program at all, shifting away from risk-pooling threatens to exacerbate the broader shift of risk onto individuals because individual accounts will typically offer less security than pooled models. In other cases, new portable models can shift benefits that have historically been administered as individual accounts to a pooled system. For example, state paid leave policies facilitate contributions to a state fund to cover leave expenses, whereas traditionally these were costs borne by employers and their workers directly.



Lastly, program designers should also be thoughtful about what effect new portable models might have on existing risk pools. Risk pools offer the greatest security when they are broadly shared and risks are more broadly distributed. Shifting the size or make-up of a pool of contributors can impact the effectiveness or solvency of a model. For example, any model that includes health insurance needs to be considered in relation to ACA marketplaces; providing insurance that pulls people out of public plans is likely to have a detrimental effect on those marketplaces. One solution suggested by the House New Democrat Coalition is to allow employers to contribute to portable health insurance accounts, which would allow multiple parties, including employers, to contribute to accounts used to purchase health plans on an ACA exchange.⁴²

Whether risk-pooled or individualized, there is a wide range of specific benefits that could be provided through a portable model: health insurance, retirement savings, workers' compensation, disability insurance, life insurance, paid sick leave, family leave, child care assistance, and training opportunities are all possibilities. One approach is to consider first those benefits that certain groups of workers need most. Along these lines, workers' compensation insurance may be a good starting point, given its direct relation to work, its importance in providing stability in the case of unforeseen accidents, and the discrepancy that traditional and non-traditional workers have in coverage rates. Washington's bill mandates provision of this insurance, and [New York's Black Car Fund](#) provides it to for-hire drivers in the state.

► For more information, see the [Existing Models Guide](#)

Developing a portable benefits model provides an opportunity to determine which benefits are most essential for workers. In addition to considering commonly offered benefits, policymakers should consider novel and innovative worker benefits that might be particularly valuable for the current realities of work. New benefits, such as income smoothing or emergency cash savings accounts, could address challenges faced in today's economy, especially by non-traditional workers.

Considerations


In deciding what benefits to include or exclude, policymakers should consider:

- **Which benefits do workers value most?**

In general, both traditional and non-traditional workers value affordable health insurance above all other benefits. Beyond that, workers' preferences for specific benefits vary based on occupation, income level, and other factors.⁴³ A worker who has health insurance through a second job or a spouse, for example, may not need access to an additional health plan through a portable benefits program—but they may need a retirement plan or paid leave. Benefits should also be considered

⁴² New Democrat Coalition. 2018. "[Creating a 21st Century Social Contract](#)."

⁴³ MetLife. 2019 "[Thriving in the New Work-Life World: MetLife's 17th Annual US Employee Benefit Trends Study](#)." Jones. 2017. "[The Most Desirable Employee Benefits](#)." Harvard Business Review.



in the context of total compensation, understanding that workers often may value cash more than benefits. The decision of what benefits to include should be made with a clear understanding of what types of workers will be included in the eligible population, ideally derived through close consultation with workers and worker advocates. Policy designers may want to consider research into specific worker populations to identify challenges faced and specific benefits needs.⁴⁴

- **Which benefits could improve sustainability of public programs?**

Elected officials should consider those benefits that hold potential to reduce long-term societal cost. By working to improve individual financial security, policymakers can reduce the risk of individuals ending up reliant on safety net programs. For example, when workers do not save adequately for their retirement, their city, state, and country is likely to spend more in the long run, so the long-term impact of offering accessible, affordable savings plans needs to be considered along with immediate costs.

- **Should the inclusion of certain benefits be required or should benefits selection be left to designated administrators?**

Policymakers may determine that there are some benefits that all workers should have and may choose to require the inclusion of those benefits. However, policymakers may give the benefits administrator some flexibility in determining which benefits to offer, again in close consultation with workers and worker advocates (benefits administration will be considered at length below).

2. Who Will Be Eligible for Benefits?

Summary

One of the goals of portable benefits is to make access to benefits more universal. However, universality may be challenging to achieve in a single step. Given the gap in access between different types of workers, the best path to universality may be to design models that provide coverage to underserved groups; from there, programs could be expanded to cover more workers. Defining a specific beneficiary population could also address the unique needs of certain workers. Regardless of the type of population defined, beneficiaries must be aggregated to make communication feasible and cost-effective. If benefits are risk pooled, there must be enough beneficiaries to adequately spread risk.

⁴⁴ For an example of such a survey, see IDG Benefits Fund's survey of New York City Black Car drivers. IDG Benefits Fund. 2018. "[Opinion Poll: New York City Independent Drivers' Views on Worker Benefits.](#)"



Options

There are several ways policymakers can specify a population covered by a portable benefits model. One option is to focus on a **specific type of work arrangement**, such as independent contractors or workers with short-term contracts, including temp-agency and project-based workers. These workers typically lack access to most workplace benefits, and so could benefit greatly from portable models.

Policymakers could also focus more narrowly on a particular **subset of workers within an arrangement**. For example, a portable benefits model could be created specifically for independent contractors who work through companies that match workers with clients or customers, including online or app-based rideshare and freelancing platforms as well as more traditional offline agencies or services. These intermediaries generally track hours and work completed, as well as payment—information that would facilitate the administration of benefits.

Another way to narrow the eligible population is to focus on developing a model for non-traditional workers in **specific industries** or occupations, such as construction, entertainment, or domestic work. Tailoring programs to workers in specific industries could address the specific needs of workers within that industry. The Black Car Fund, which facilitates workers' compensation for drivers, is an example of an occupation-specific portable benefits model.

A clearly defined population of workers may be more feasible for policymakers to address initially, while considering the potential for future program expansion. The Black Car Fund provides an example of a portable benefits policy that was expanded beyond its initial beneficiaries; it initially covered only black car drivers in New York City, but in 2017 the program was expanded to cover a larger geographic area—the state of New York—and was opened to another group of workers—rideshare drivers. A limited population initially can contribute to a functional, sustainable model that, once proven, can be expanded to a broader population of beneficiaries.

Considerations

When identifying a beneficiary population, policymakers should consider:

- **How does defining a population of workers impact how portable benefits are?**

A narrow population of workers, such as those working in a particular industry, allows policymakers to develop a feasible model that addresses the unique benefits needs of those workers. However, narrowing the eligible population limits the portability of benefits. If benefits are available only to drivers, for example, and then a driver changes careers to work in retail, she likely loses access to benefits.

- **Should self-employed individuals and small businesses be able to opt in to coverage?**

Many non-traditional workers are completely self-employed, lacking an employer or an intermediary through which they arrange work. For example, small shop owners or independent plumbers lack access to many benefits, and also lack an entity that tracks their work and hours. Policymakers may wish to consider enabling self-employed individuals like these to opt in, and would need to explore funding mechanism options for them, keeping in mind two key factors: 1) the risk of adverse selection (the underrepresentation of low-cost participants and overrepresentation of high-cost participants) and 2) the marketing expense required to raise awareness about benefit availability to this disaggregated population. The experience of states that have included opt-in provisions for non-traditional workers in paid family and medical leave may be instructive on these issues.

- **Should all eligible workers be required to participate?**

Requiring participation may be overly prescriptive against a backdrop of flexible work and the heterogeneity of benefits today. Workers may access benefits through another work arrangement or through a family member, and not need access through a new portable model. Making coverage optional would allow these workers to opt out. However, benefits that pool risks, including insurance programs, could become prohibitively expensive if too many workers opted out. For account-based programs, like retirement savings accounts, automatically enrolling people can promote better savings patterns.⁴⁵

3. How Will Benefits Be Funded?

Summary

Any benefit system must have adequate and sustainable funding. There are four potential payers: employers, customers, government, and workers themselves. Given the substantial cost of providing quality benefits, a combination of payers may be necessary. Regardless of the payer or payers identified, the additional cost of benefits is likely to impact other stakeholders. For example, mandating contributions by employers could lead to lower wages. A fee on business imposed by government may be passed on to consumers. When thinking about who pays for benefits directly, policy designers should bear in mind these downstream effects. Determining who should contribute to portable benefits—and whether those contributions are mandatory or voluntary—comes with key economic, social, and political considerations.

⁴⁵ According to investment advising firm Vanguard, plans with automatic enrollment have a 92 percent participation rates, compared with a 57 percent rate for voluntary enrollment plans. Vanguard. 2018. "[How America Saves 2018: Vanguard 2017 Defined Contribution Plan Data](#)." In its first year of operation, the OregonSaves retirement plan saw more than 72 percent of automatically enrolled workers saving. Oregon Retirement Savings Board. 2018. "[OregonSaves Annual Report to the Legislature](#)." Oregon State Treasury.

Options

Potential payers include:

- **Employers**

Many workers today receive benefits through their employers, and many employers facilitate the administration of benefits for their employees. Extending the role of the employer into any system of portable benefits would be logical, draw on existing infrastructure, and create consistency in how benefits are funded. As a comprehensive and unified system, portable benefits may be able to relieve some of the administrative burden on employers as compared to the traditional employer-provided model, under which every employer must identify, fund, and administer each benefit separately.

Employers are in an excellent position to facilitate prorated payments. Because they are well positioned to track the hours or other output measures of a worker, calculating and remitting a percentage or a per-hour fee would be relatively straightforward. When work is arranged by intermediary entities, such as temporary help agencies or online platforms, funding could come from either the intermediary or the direct supervisor of the work.

Employers are often concerned that contributing to benefits could impact worker classification determinations by courts, state agencies, or other entities. Portable benefits legislation introduced in Washington state addresses this through a “hold harmless” provision, which states that the requirements to fund portable benefits under the legislation may not be considered in legal determinations of a worker’s employment status. Any other actions by employers could still be taken into account in worker classification determinations.⁴⁶

- **Customers**


Another potential source of funds for portable benefits is the customer or end user—for example, the client of a hair stylist or the passenger in a rideshare service. This could be designed as a voluntary option or as a mandatory surcharge.

There are several models in operation that rely on customer funding. The Black Car Fund in New York City operates on a mandatory 2.5 percent consumer surcharge on each black car ride, and generates enough funds to cover workers’ compensation insurance for more than 130,000 drivers.⁴⁷ In fact, it generates enough revenue that available benefits have been expanded to include vision and telemedicine. [Alia](#), a portable benefits platform created by the National Domestic Workers Alliance’s Innovation Lab, NDWA Labs, offers benefits—as of this writing, paid time off and

► For more information, see the Existing Models Guide

⁴⁶ State of Washington. “[HB 2812 - Concerning determinations of worker benefits and employer obligations based on a worker’s status](#).” 65th Legislature. Introduced January 17, 2018. More information on this legislation can be found in the Existing Models Guide.

⁴⁷ The Black Car Fund. “[History](#).” Accessed April 30, 2019.



several types of insurance, including disability, accident, critical illness and life—through a voluntary customer contribution. Because benefit systems need reliable funding streams, voluntary customer contributions could be a part of the funding system, but should not be relied on to entirely fund a model.

It is also worth noting that a small surcharge, like that of the Black Car Fund, can be effective at providing a single, discrete benefit (in this case, workers' compensation), but would likely not be able to generate enough funds to offer a full suite of benefits, especially given the cost of quality health coverage.

- **Government**

Government funding has the potential to be stable, removed from market volatility, and is unlikely to negatively impact wages, since the cost would be spread across a wide base of taxpayers. Designing a model with government funding would allow a benefit to be means tested—that is, it would enable more significant contributions for those with greater financial need. However, many state and local governments face fiscal challenges that could present a barrier to program development; in these cases, policymakers would need to build political support over time.


There are a number of approaches to implementing government funding for portable benefits. Revenue could be generated from taxpayers, either by introducing a tax on certain products or services, or by increasing a sales or other existing tax. Government could also raise revenue from a fee on business, like that imposed to fund [Healthy San Francisco](#), the city's health access program, which was a precursor to the Affordable Care Act.

► For more information, see the [Existing Models Guide](#)

- **Workers**

Traditional workers contribute to their own benefits—primarily health care and retirement—at varying levels. Non-traditional workers often fund these benefits entirely on their own. Similarly, portable benefits models could rely on required or optional worker contributions.

One advantage of worker contributions is that workers may feel more ownership over their benefits, and thus better take advantage of them. And if workers are at least partially funding benefits, they are more likely to be in control of them. The [Freelancers Union](#) is an example of an entirely worker-funded portable benefits model for non-traditional workers, one which maximizes workers' control over their own benefits. Under this model, individual freelancers purchase any of a range of different benefits at rates negotiated by the Freelancers Union, including health, dental, retirement, disability, liability, and others. Workers get essential coverage at a cost that is less expensive than what they could get individually, while Freelancers Union builds community and earns revenue for benefits administration. Worker contributions can also make programs more politically sustainable over the long term. For example, Social Security and Medicare have persisted for so long largely



because they are universal earned benefits that require contribution from all workers, including those classified as independent contractors and employees.

However, it is important to note that it could be difficult or impossible for workers to cover the full cost of benefits themselves. For traditional employees, a complete package of worker benefits costs employers an average of over 30 percent on top of wages and salaries,⁴⁸ an amount that is subsidized by the government through related tax deductions for employers. Expecting workers, especially those with low incomes,⁴⁹ to fund this entire cost is unreasonable. Further, any legislation that explicitly requires that workers alone pay for benefits could enhance, rather than reduce, the incentive for employers to engage workers as independent contractors.

Considerations

In making this determination, policymakers should consider:

- **What is the funding mechanism?**

Policymakers need to consider whether there will be single or multiple contributors to a portable benefits model, and what form those contributions will take—a percentage of wages, a flat fee, or a combination of both. The amount charged should be informed by the expected costs of providing and administering the benefits, which will vary depending on the size of the workforce, the benefits provided, and more. When worker contributions are considered, policymakers should be mindful of worker income and ability to pay. In any case, policymakers should consider the potential impact on wages, because it is likely that regardless of who is paying for the benefits directly, some cost will be passed on to the worker in the form of lower wages.⁵⁰


- **How do models relate to existing programs and regulatory frameworks?**

Policies stipulating who pays for portable benefits need to be situated within the broader landscape of workplace benefit and social safety net policies. Employer contributions to some benefits—primarily health coverage and retirement savings—fall under the purview of federal law. Specifically, the Employee Retirement Income Security Act (ERISA) of 1974, intended to protect covered individuals, sets

48 BLS survey finds that benefits are 30.4% of total private sector worker compensation, with wages and salaries making up the remaining 69.6%. See Table A. Bureau of Labor Statistics. 2018. "[Employer Costs for Employee Compensation – September 2018](#)." U.S. Department of Labor.

49 "While family income may be affected by many factors (see sidebar), core contingent workers are generally more likely to report low family incomes than standard full-time workers." U.S. Government Accountability Office. 2015. "[Contingent Workforce: Size, Characteristics, Earnings, and Benefits](#)."

50 Congressional Budget Office. 2016. "[The Distribution of Household Income and Federal Taxes, 2013](#)."



minimum standards for plans provided by employers. After considering current regulation at the state and federal level, policymakers may find it necessary to advocate for technical changes in order to implement some portable benefits models. In addition, contributions from government should be thought of in the context of current government subsidies for employer-provided benefits—especially indirect contributions provided through tax deductions for employers’ expenses on benefits. Policymakers may find direct contributions to portable benefits models to be comparable, or to save money, compared to the current system.

- **Should contributions be mandatory or voluntary, particularly for employers and/or customers?**

While voluntary contributions are an option, mandatory contributions are preferable. First, mandatory contributions would contribute to a more predictable, sustainable revenue source. Second, mandatory contributions from employers specifically would level the playing field across employers, rather than penalizing generous actors with a cost disadvantage. Finally, mandated contributions may be more defensible in an employment classification context. That is, companies would bear less risk in contributing to benefits for independent contractors if the contribution were mandatory, rather than voluntary and without explicit legal protection. The Massachusetts paid family and medical leave policy passed in June 2018 adopts an innovative hybrid, making contributions mandatory for any business with a workforce that is more than 50 percent independent contractors.⁵¹

4. Who Will Administer the Benefits?

Summary

Policymakers need to consider what type of entity is best suited to administer portable benefits with a focus on how to ensure accountability to eligible workers. Administration involves receiving financial contributions; consulting with beneficiaries, policymakers, and the market to evaluate available benefits; governing the terms of eligibility and service provisions; and contracting with specific benefit providers.

Options

There are several types of entities that could administer portable benefits:⁵²

51 In the Massachusetts model, funding and coverage are decoupled, and coverage for the self-employed is on an opt-in basis. So although entities that facilitate the hiring of more than 50 independent contractors are required to make contributions into the system, those contractors would still have to opt in to the program in order to be covered.

52 For a discussion of a wide range of potential administrators, see Mazer et al. 2019. “[Portable Non-Employer Retirement Benefits](#).” Aspen Institute Financial Security Program and Common Wealth.

- **Government**

Benefits could be administered by federal, state, or local government through three different types of approaches. The government may administer a benefits program on its own as a social insurance program, like Social Security. Alternatively, government administrators can partner with a private provider, subject to government oversight, similar to state-facilitated auto-enrollment Individual Retirement Account (IRA) programs, like [Illinois' Secure Choice](#) or [OregonSaves](#). Finally, government could administer benefits through a regulated marketplace of options, which can be subsidized with public funds, like the Affordable Care Act. In one model described by the online platform Etsy in their 2017 paper, "Crafting the Future of Work," workers could have access to a Federal Benefits Portal that would "tie all benefits (retirement, health insurance, paid leave, tax-advantaged savings accounts, disability, etc.) to the individual, providing a single marketplace to view, choose, and pay for their benefits, regardless of where or how they earn income."⁵³

► For more information, see the [Existing Models Guide](#)

One possible advantage of government administration is that it allows policymakers to exercise the greatest degree of control in design and operation. It also facilitates a highly portable model for individuals, creates the potential for great scale, and promotes transparency and accountability. However, creating new government programs can be difficult politically. In addition, while a government-administered program could serve the primary purpose of delivering benefits, it could miss an opportunity to aggregate workers to best understand concerns and advocate for benefits and other improvements to working conditions.

- **Nonprofit**

Portable benefits could be administered by a new or existing nonprofit organization, including worker advocacy organizations. Nonprofit administration has the potential to be most directly aligned with the interests of eligible workers. Both David Rolf of SEIU 775⁵⁴ and Sara Horowitz, Founder of Freelancers Union⁵⁵ have favored this idea; Freelancers Union is an example of an existing nonprofit benefits administrator. Policymakers in [Washington](#)⁵⁶, [New Jersey](#)⁵⁷, and [Georgia](#)⁵⁸ have introduced portable benefits bills that require nonprofit administrators. Enrolling beneficiaries would allow worker advocacy organizations to aggregate workers for other communication and organizing efforts, and to potentially generate revenue.

53 Etsy. 2017. "[Crafting the Future of Work](#)."

54 Hanauer and Rolf. 2015. "[Shared Security, Shared Growth](#)." *Democracy Journal*.

55 Horowitz. 2015. "[Help for the Way We Work Now](#)." *New York Times*.

56 State of Washington. "[HB 2812 - Concerning determinations of worker benefits and employer obligations based on a worker's status](#)." 65th Legislature. Introduced January 17, 2018.

57 State of New Jersey. "[S67 - Establishes system for portable benefits for workers who provide services to consumers through contracting agents](#)." 218th Legislature. Introduced January 9, 2018.

58 State of Georgia. "[SB 475 - Independent Contractors; certain employment benefits; funding; administration; and eligibility; provide](#)." 2017-2018 Regular Session. Introduced February 21, 2018.

- **For-profit**

A for-profit company could also administer portable benefits. For-profit governance could provide motivation to keep costs low and processes efficient. The private sector may also be well situated to bring a portable benefits model to scale. However, a profit motive may lead private administrators to take a larger administration fee, negating potential cost effectiveness. In addition, policymakers pursuing private-sector administration should consider how to keep workers' best interests central. A variation on private administration would be a private exchange, as articulated by the R Street Institute. Under such a model, a private exchange could "serve as a third-party administrator through which firms would finance worker benefits."⁵⁹

Considerations

When thinking about portable benefits administration, policymakers should consider:

- **Are administrators financial sustainable?**

Since portable benefits need adequate funding, policymakers evaluating administrators need to focus on identifying a financially sustainable model. Part of ensuring financial sustainability and resilience may require certain best practices by administrators. For example, the Washington bill requires that administrators maintain cash reserves, liability coverage, and access to bonding. Policymakers may also prescribe how an administrator will manage funds—through a social insurance model, a general fund, individual account, or some hybrid of these.

- **To whom do administrators have fiduciary duty?**

Requiring a for-profit or nonprofit administrator to have a legal fiduciary responsibility to the beneficiaries could help ensure that portable benefits are administered in workers' best interest. The Washington and New Jersey bills stipulate that the administering organization must be independent of any financial conflicts of interest with its covered workers, and that all actions in service of providing benefits must be for the purpose of maximizing benefits for the workers.

- **Do workers have a voice in governance?**

Another way policymakers can ensure that benefits are administered in good faith is by requiring that the governance of the administering organization incorporate workers themselves. For example, the organization could be a union or guild, operate as a co-op or worker-owned enterprise, or be governed by a board of which a certain percentage of the members are elected by the covered workers. These worker-centered structures could provide workers greater control over their benefits and greater transparency in their administration. They may also offer an effective way of aggregating workers and supporting worker voice among those for whom collective action might otherwise be difficult or prohibited.

59 Adams. 2015. "[The Flexible Future of Work](#)." R Street Institute.

A NOTE ON WORKER CLASSIFICATION

As previously mentioned, the issue of worker classification is connected to the idea of portable benefits. First, worker classification has significant bearing on the benefits to which workers are legally entitled and on actual rates of coverage, which are significantly greater for traditional employees than they are for independent contractors. Second, the cost of covering benefits for employees may lead some employers to misclassify workers as independent contractors, who are then denied essential benefits to which they should be entitled. Third, some employers have argued that providing benefits to independent contractors could put them at risk of a misclassification finding.


Some policymakers have chosen to address questions of worker classification alongside portable benefits. For example, the 2019 Washington bill⁶⁰ includes a strict new test for worker classification based on the so-called “ABC test” adopted by the California Supreme Court in its 2018 ruling in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*.⁶¹ This test places the burden on the employer to demonstrate that a worker is an independent contractor by establishing that a) the person is free from control, b) performs work that is not core to the employer’s business, and c) performs the same work for other employers. In addition, the Washington bill addresses businesses’ concerns about misclassification risk associated with the provision of benefits by including a “hold harmless” provision. This provision states that the provision of benefits under the bill cannot be used in making a classification determination at the state level.

At least two other states have paired clarification about classification with portable benefits in a different way. In bills introduced in Alabama and California, policymakers have proposed the creation of a new category of workers: the marketplace contractor. Under these bills, marketplace contractors are workers who connect with customers through an application, software, or website—a designation based on how a worker is hired, rather than the nature of the relationship between the worker and the business.⁶² Supported by platform companies, the marketplace contractor designation represents a departure from prior criteria to determine classification, and eliminates workers’ right to seek employment-related protections. In these bills, the marketplace contractor designation has been paired with a portable benefits model; businesses are allowed, though not required, to offer benefits to contractors without risking a misclassification lawsuit.

60 State of Washington. “[HB 1601 - Creating the universal worker protections act](#).” 66th Legislature. Introduced January 25, 2019.

61 *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*. No. S222732. Supreme Court of California. Filed April 30, 2018. Available at: <https://scocal.stanford.edu/opinion/dynamex-operations-west-inc-v-superior-court-34584>.

62 Scheiber. 2019. “[Is Gig Work a Job? Uber and Others Are Maneuvering to Shape the Answer](#).” *New York Times*.



Portable benefits need not be created through a trade of this kind, though. A hold harmless provision, for example, protects companies from misclassification suits based on contributions to benefits without taking away workers' right to allege misclassification based on other criteria. One of the primary goals of portable benefits is to promote financial security for non-traditional workers; any policy that simultaneously eliminated these workers' ability to seek reclassification—and associated benefits and protections—would be counterproductive.

In six states, the marketplace contractor legislation has passed without mention of benefits, and has been introduced in Texas through an administrative rule change. In Tennessee, legislation passed in 2018 that explicitly prohibits platforms from offering benefits to the newly designated marketplace contractors.

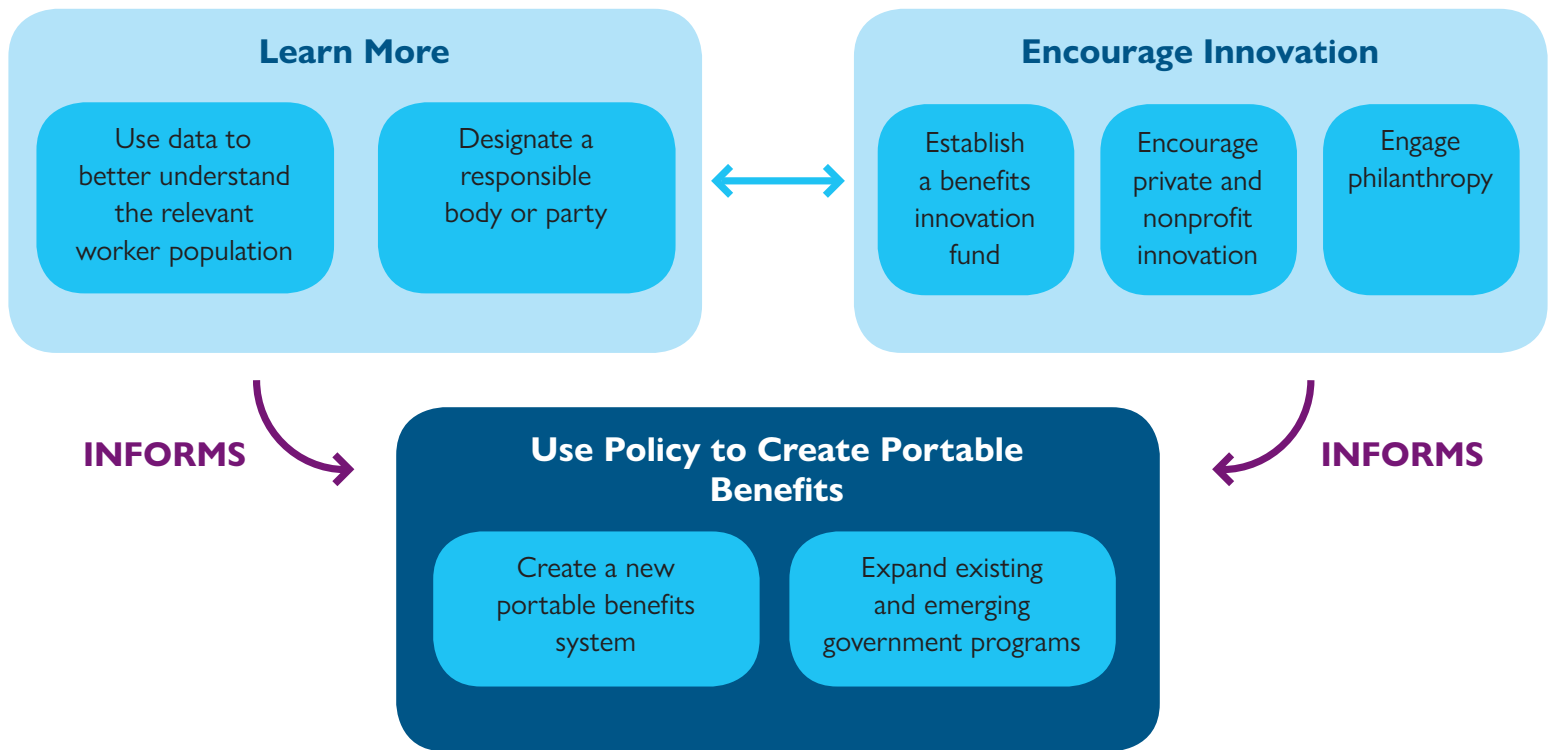


SECTION 4

Where to Go from Here

Policymakers interested in designing a portable benefits model can move forward immediately; in this section and in the Existing Models Guide, there are many examples of action already underway to create new models and to revise existing programs to be more portable, prorated, and universal. In addition, policymakers can take several steps to inform current and future efforts to develop policy solutions—including gathering information, engaging stakeholders, and encouraging innovation in the private and nonprofit sectors. These steps need not be taken sequentially; they can be undertaken simultaneously or iteratively in order to most effectively extend benefits to more workers.

WHERE TO GO FROM HERE



Learn More

Understand the Relevant Worker Population

Data is needed in order to understand the size and nature of the workforce and its benefits needs in any jurisdiction. Policymakers can both develop insights from existing data sources, and advocate for the collection of new data. Possible questions to address include what work arrangements people have, how they piece different types of work together, what benefits they have access to, how they access those benefits, and what benefits they most need or value. In addition, these questions may vary by income level, family situation, and other demographic characteristics.

Steps to consider in building a more thorough understanding:

- **Review existing data**

Several existing data sources speak to work arrangements and workplace benefits and can inform policymakers across the country. Available data sources include:

- **Contingent Worker Supplement (CWS):** Conducted periodically by the Bureau of Labor Statistics (BLS) as a supplement to their Current Population Survey, the CWS measures contingent and alternative work arrangements, along with health and retirement benefits. The most recent edition, released in June 2018, provided the first government estimate of these work arrangements since the last iteration in 2005. While it is the most relevant data collected, it has limitations—most importantly, it asks respondents only about their main job, not any supplementary sources of income.
- **Survey of Household Economics and Decisionmaking (SHED):** This survey, conducted annually by the Federal Reserve Board, measures the economic well-being of U.S. households and identifies potential risks to their finances. In 2017, the survey began including questions about gig work, “side hustles,” and other sources of income beyond a primary job. It also asks about health insurance access, health care costs, and retirement savings.
- **National Compensation Survey:** This annual survey of employers, conducted by BLS, collects information on the number of employees, their jobs, and compensation, including the provision and cost of benefits. It focuses on those classified as employees, and does not offer information on work arrangements.
- **Tax data:** Administrative tax data held by the Internal Revenue Service (IRS) is a potentially rich source of data on work, work arrangements, and income. Some data, such as the number of Form W-2s and Form 1099s issued, is publicly available.⁶³ Additional data, including that at the state level, may be available through research partnerships with relevant agencies.
- **Private data:** Some companies and organizations have conducted their own surveys and studies of work arrangements and the needs of workers today. For example, the JPMorgan Chase Institute has analyzed bank account transactions to understand who earns income from online platforms and how that income relates to other income, including variation by state.⁶⁴ Other types of organizations that may hold useful data are those which provide tax preparation or other accounting tools, or provide payroll service. Although private data can provide rich and unique insights, it may not always have the same standard of rigor of public surveys, and is often not accessible to outside researchers.

Each of these data sets has particular strengths as well as important limitations, and no one data source can paint the full picture of what work today looks like. A comprehensive review of multiple sources can better inform policy.

⁶³ Forms W-2 and 1099 document earnings to workers. Form W-2 is issued to employees, while Form 1099 is issued to independent contractors. Examining trends in the issuance of these forms can reflect trends in work arrangements.

⁶⁴ Farrell, Greig, and Hamoudi. 2018. “[The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors.](#)” JPMorgan Chase Institute.

- **Request and fund new data collection**

As work arrangements and the way people think about their jobs have changed, existing surveys struggle to fully capture the scope of work today. In order to best understand the workforce in a particular jurisdiction, policymakers may want to request and fund new data and analysis. This could be through more consistent administration of the Contingent Worker Supplement or the creation of a new survey. It could also be through innovative use of administrative data, such as tax data, which can require collaborations between agencies holding the data and researchers with the expertise to conduct analyses. City and state policymakers may also be in a position to ask firms that operate or are headquartered in their jurisdiction to disclose information about the size and nature of their workforce. For example, the legislation on portable benefits introduced in Washington in 2018 included data provisions that would require certain employers to regularly report the number of workers, work hours and patterns, income payouts, and other information.⁶⁵

Additional Resource: For sources of data and insights on the non-traditional workforce, visit the Gig Economy Data Hub, a partnership between the Aspen Institute Future of Work Initiative and the Cornell ILR School: www.gigeconomydata.org.

Designate a Responsible Body or Party


In order to learn more about the challenges facing non-traditional workers and the potential for portable benefits in a given region, state or locality, policymakers can designate a responsible body or party, either permanently or for a defined period of time. Such a group could examine relevant data; gather perspectives from relevant stakeholders and experts; and/or examine the regulatory environment to determine if rules regarding benefits need to be implemented in order to successfully design a desired program.

Steps to consider:

- **Create a dedicated position**

A city or state could create a full- or part-time position focused on how to support non-traditional workers, either as an advisor to a mayor or governor, or as a part of a state's Department of Labor. For example, the U.K. established an “ambassador for the self-employed” in 2014. In 2017, the Virginia General Assembly elevated the

⁶⁵ State of Washington. “[HB 2812 - Concerning determinations of worker benefits and employer obligations based on a worker's status](#).” 65th Legislature. Introduced January 17, 2018.



state's Chief Workforce Development Advisor to a Cabinet-level position, with the responsibility to help coordinate efforts across various agencies and to address the needs of a changing workforce.⁶⁶

- **Create a short-term commission or task force**

Several states have convened short-term bodies bringing together a range of stakeholders—workers, advocates, employers, and other policymakers—to answer a set of core questions. Indiana's standing Workforce Innovation Council initiated a Future of Work Taskforce in 2017. In 2018, both Washington and New Jersey passed legislation to create a Future of Work Task Force, via legislation in Washington and an Executive Order of the Governor in New Jersey. In these cases, the focus is on the future of work broadly, though non-traditional work is a likely component. Nonprofit organizations representing cities and states have adopted a similar, short-term approach: the National League of Cities created a "Sharing Economy Advisory Board" in 2014, and the National Governors Association Center for Best Practices started a multi-state collaborative to understand and support the on-demand workforce in 2018.

- **Create a standing council or board to address the challenges of non-traditional workers**

Ongoing bodies could be created to establish and monitor labor protections and explore benefits access models for non-traditional workers. For example, in July 2018, the Seattle city council voted to create a Domestic Workers Standards Board. This tri-partite board—with representatives from business, workers, and the community at large—will advise on legal protections, benefits, and working conditions for domestic workers.

Use Policy to Create New Models

Create a new portable benefits system

Creating a new model holds the potential to significantly and meaningfully update the existing social contract for the 21st century. By designing a new system from the ground up, policymakers have the greatest degree of flexibility to consider and resolve the design questions (discussed in the previous section) in a way that reflects our understanding of the appropriate relationship between workers, business, and government, and aligns to the reality of work today. Establishing a portable benefits model through policy creates a clear and universal set of expectations for workers and employers and lays the foundation for scale and sustainability. Policymakers in cities and states have proposed new portable benefits systems, including Washington, New Jersey, Georgia, and New York City.

⁶⁶ Martz. 2018. "[Northam names Megan Healy as first Cabinet-level adviser on workforce development.](#)" *Richmond Times-Dispatch*.



New models can take on a number of different forms, for example:

- **Benefits Exchange**

Under this model, a state or other entity would regulate an exchange of benefits providers. The exchange could be structured to allow workers to either select a provider through whom they could access a variety of benefits—an Exchange of Providers—or it could be structured to allow workers to select individual providers for individual benefits—an Exchange of Benefits. Examples of exchange models include: the state health care exchanges created under the Affordable Care Act, the Washington State Small Business Retirement Marketplace program, and the proposed Washington portable benefits legislation.

- **Single Provider**

Under a Single Provider model, policy designates a single provider of benefits to certain workers, subject to government oversight. The Black Car Fund in New York State is an example of this type of system, through which the Fund becomes the designated provider of workers' compensation insurance to black car drivers throughout the state.

- **Public Option**

A government agency could administer portable benefits directly. State-facilitated retirement savings programs, like Illinois' Secure Choice or Oregon's OregonSaves, which give workers access to payroll-deduction IRAs, are an example, as are paid family and medical leave programs in several states.

The appropriate model will likely vary between states depending on the local priorities and political realities. For example, one state might prioritize the use of portable benefits as a revenue model for a worker organization, while another might prioritize the expansion of an existing government-run savings program. No matter the structure, the administrator must be sufficiently accountable to workers in order to ensure quality and relevant benefits coverage.


Steps to consider:

- **Bring together employers and worker advocates to craft a new policy proposal**

Using the design questions in this document as a framework, policymakers could convene relevant parties to identify common ground. In general, employers may be best suited to discuss contribution rates and mechanisms but may not be essential to discussions about which benefits are provided to whom.

- **Introduce a portable benefits bill modeled on existing legislation**

There are at least two strong examples of existing policy that could be introduced and considered elsewhere: the portable benefits bill introduced in Washington state



(originally introduced in 2017 and updated and re-introduced in 2018 and 2019), and the Black Car Fund legislation, which was passed in New York state in 1999. Policymakers could use these as models for legislation.

Expand existing and emerging government programs (including social insurance, government savings, and others)

One relatively straightforward way to extend benefits to more people is to ensure existing and emerging government programs that provide benefits to workers allow participation by all workers. Both risk-pooled social insurance programs, like Medicare and Unemployment Insurance, and individual savings programs, like state-facilitated retirement savings programs, could be expanded.

Some programs have existed for many years, and expanding eligibility requires adaptation and reform of program parameters; Unemployment Insurance, health coverage, and workers' compensation are example. Other programs are currently being introduced, like paid family and medical leave, and can benefit from consideration of portability during the design process. Several states are experimenting with innovative ways to build coverage of non-traditional workers into both new and existing programs, including state-facilitated retirement programs, paid family and medical leave, and Unemployment Insurance.⁶⁷

- **State-facilitated retirement programs**

If a state does not yet have a state-facilitated retirement savings program, policymakers should consider proposing one that includes workers of all types, including non-traditional workers. States with government-facilitated retirement savings programs should consider expanding the program to ensure that workers of all kinds, including the self-employed, can opt in, as several states already have. In addition, policymakers should encourage program officials to engage with aggregators of non-traditional workers, including their employers, in making these workers aware of the program.

- **Paid family and medical leave**


Current legislative activity around [paid family and medical leave](#) provides an opportunity to consider how to ensure this benefit is universal—and specifically, how it covers non-traditional workers. Including non-traditional workers of all kinds requires attention to issues that affect this population, for example: employment duration, multiple sources of income, and mandatory versus opt-in program design.

► For more information, see the [Existing Models Guide](#)

- **Unemployment Insurance**

Created in 1935, Unemployment Insurance (UI) is a central pillar of the social insurance system for workers in America. The UI program—which is overseen by

⁶⁷ State-facilitated retirement programs and paid family and medical leave are profiled at length in the Existing Models Guide of this paper.



the U.S. Department of Labor and administered by the states—collects payroll taxes from employers to insure workers against unexpected job loss. Eligible workers who become unemployed through no fault of their own can receive temporary income support while they search for reemployment. In 2017, the program paid \$30 billion to 5.7 million out-of-work individuals.

Workers in non-traditional jobs often lack Unemployment Insurance. Independent contractors and freelancers are excluded from UI because they do not work for a traditional employer that would make contributions on their behalf. Other non-traditional workers, such as part-time workers, can qualify for UI as a benefit of their employment classification, but are disadvantaged relative to traditional workers in how the program is structured.

Policymakers could address the exclusion of self-employed workers in several ways. For instance, policymakers could experiment with allowing some self-employed workers with long, stable earnings histories to opt into traditional UI coverage. Researchers at the Century Foundation suggest piloting a program that would allow some self-employed workers to opt into UI—provided they pay in for a period of time before being eligible for benefits, similar to eligibility for workers in traditional employment.⁶⁸ Alternatively, policymakers could create other supports to help self-employed workers weather job and income loss—such as Individual Security Accounts as proposed by MIT’s Jonathan Gruber in a 2016 paper for the Future of Work Initiative’s Fresh Perspective Series,⁶⁹ or a Jobseeker’s Allowance as proposed by the Center for American Progress, the National Employment Law Project, and the Georgetown Center on Poverty and Inequality.^{70 71}

Encourage Private Sector and Worker Advocate Innovation


Policy change on this front holds great potential to support worker financial security and provide a clear set of parameters to employers. However, both the development and implementation of any large-scale solution will likely require collaboration across sectors. For example, benefits might be administered by a nonprofit worker advocate group,

68 Stettner, Cassidy, and Wentworth. 2016. [“A New Safety Net for An Era of Unstable Earnings.”](#) The Century Foundation.

69 Gruber. 2016. [“Security Accounts as Short Term Social Insurance and Long Term Savings.”](#) Aspen Institute Future of Work Initiative.

70 West et al. 2016. [“Strengthening Unemployment Protections in America.”](#) Center for American Progress, National Employment Law Project, and Georgetown Center on Poverty and Inequality.

71 For more information on UI, review “Modernizing Unemployment Insurance for the Changing Nature of Work,” a policy paper from the Aspen Institute Future of Work Initiative. McKay, Pollack, and Fitzpayne. 2018. [“Modernizing Unemployment Insurance for the Changing Nature of Work.”](#) Aspen Institute Future of Work Initiative.



and that nonprofit might engage a for-profit benefits provider for products, account infrastructure, and customer support. Further, broad policy change may be usefully spurred or informed by action in the private and social sectors.

Introduce or support existing legislation to create a benefits innovation fund

At the federal level, Senator Mark Warner and a bipartisan group of co-sponsors have introduced the Portable Benefits for Independent Workers Pilot Program Act (S. 541, 116th Congress).⁷² This bill would require the U.S. Department of Labor to award grants, on a competitive basis, to states, local governments, or nonprofit organizations to support broad portable benefits innovation and experimentation. State or local policymakers could advocate for the passage of this bill at the federal level, or state policymakers could introduce a similar bill at the state level. For example, Massachusetts State Senator Eric Lesser introduced a bill in January 2019 to establish a state portable benefits innovation fund.⁷³ If implementing agencies take care to consider scalability and replicability, innovation at the local or city level holds the potential to inform state- and federal-level policy, in addition to addressing the needs of the community.


Encourage private and nonprofit sector innovation (separately or together)

Policymakers can use their platform and convening power to encourage and promote innovation by the private and nonprofit sectors. Over the past several years, actors in these sectors have experimented with portable benefits solutions. Both employers and workers may be constituents of a policymaker and, in that case, a policymaker might host or otherwise support active discussion between these parties. In some cases, discussion between sectors may result in an agreement about working conditions that requires policy change, in which case policymakers may play a role in formalizing the agreement through legislation.

In many other cases, stopping short of public policy, stakeholders are entering into innovative partnerships that extend benefits to more workers. For example, a partnership between the National Domestic Workers Alliance (NDWA) and Thumbtack illustrates cross-sector non-governmental innovation expanding portable benefits. Through its innovation lab, NDWA developed Alia, a platform for home cleaners to access benefits, including paid leave and disability insurance, funded by contributions from the households that engage their services. Thumbtack, an online marketplace for local services, has partnered with Alia to allow customers who find home cleaners through Thumbtack to contribute to benefits for these workers; Thumbtack has offered up to \$20,000 in seed

⁷² A companion bill (H.R. 2685) was also introduced in the House in the 115th Congress but has not yet been re-introduced in the 116th Congress as of this writing.

⁷³ Commonwealth of Massachusetts. "[S.211 - An Act Establishing a Portable Benefits for Independent Workers Innovation Fund.](#)" 191st General Court. Introduced January 22, 2019.



funding for new accounts. Although policy action is best suited to creating scale and setting consistent expectations for all stakeholders, these partnerships can help prove market demand for portable benefits models, and should be encouraged by policymakers.

Engage philanthropy

Many national and local funders already support research, policy development and advocacy on portable benefits. For example, The Workers Lab and The Rockefeller Foundation teamed up in 2018 to run a Design Sprint for Social Change.⁷⁴ This process engaged thought leaders across the fields of financial inclusion, workers' rights, and asset building to design ways to get non-traditional workers access to \$1,000 when they need it for unexpected expenses. Alternatively, donors could fund a benefits innovation challenge, either individually or collectively. This challenge could award grant funding for portable benefits development at the state or local level. Funding could support: idea generation; awareness, advocacy, and political support; initial pilot benefits; and/or technology and infrastructure. Policymakers can convene stakeholders around efforts like these and can celebrate innovation in philanthropy that helps to extend more benefits to more workers.

⁷⁴ Wise and Rojas. 2018. "[Addressing the \\$1,000 Problem: A Necessity for the Workers Who Are Shaping our Future.](#)" The Rockefeller Foundation and The Workers Lab.



Conclusion

Work in the 21st century American economy is different from the world of work of 50 years ago, when employers, workers, and policymakers forged the current social contract. Especially for today's non-traditional workers and multiple income earners, last century's social contract too often does not provide the economic security that it promises.

There is a widening gap in benefits coverage between those in permanent, full-time work and those in more precarious, more part-time work. Because these benefits—such as health coverage, retirement savings, and workers' compensation—often serve as critical economic stabilizers for people who work in the United States, this gap underlies a substantial shift of risk and cost from organizations to individuals—individuals who, increasingly, can bear neither the risk nor the cost. All workers should be able to accrue benefits regardless of work arrangement.

Portable benefits solutions can address this gap and correct for this shift. While many have voiced support for this collection of ideas—existing models as well as proposals—it is critical for more leaders to take real action. Taking inspiration from the existing models covered in this Guide and with the design questions in mind, policymakers have an opportunity to forge a new social contract—one that works for all workers.



Existing Models Guide

Although portable benefits are uniquely suited to addressing the challenges of workers today, some related models have been around for decades. For example, Social Security, first enacted in the 1930s, is an example of a policy-created benefit model that is highly portable, prorated and universal. There are also brand new models that share a similar set of objectives, including legislation proposed during the last three years in Washington, New Jersey and Georgia, that establish a way for non-traditional workers to access benefits. These policy-created models can be a source of inspiration and information for policymakers interested in advancing portable benefits.

In addition to policy-created models, there are also portable benefits models that have emerged from other sectors and can inform the design of future models. These have been implemented by private companies, public companies, nonprofit organizations, and labor unions. Finally, select international models may also provide a source of inspiration. When thinking about ways to extend benefits to more workers, existing models—policy-created, non-governmental, and international—provide valuable examples. In each section, existing models are listed in the order they were introduced historically.

Policy Models

Social Security

<https://www.ssa.gov/>

About

Social Security was created in 1935, against the backdrop of the Great Depression, as a way to ensure that Americans would have adequate retirement savings.⁷⁵ Both workers and employers contribute to this social insurance program based on earnings, and benefits are also provided based on earnings. Eligibility was expanded in 1939 to include not just workers but also their dependents and survivors, and in 1956, the benefit was expanded to include disability insurance, providing support for working-age adults who are unable to work due to a long-term disability. In 2018, these programs provided approximately \$1 trillion to 63 million people.⁷⁶

Significance

Social Security has all three components of portable benefits to some degree: portability, proration, and universality. Social Security is portable: contributions are connected to an individual rather than a specific job. It is prorated: contributions can be made by any number of employers, and both contributions and distributions are made in proportion to earnings. Finally, it is universal: individuals in most formal work arrangements are eligible.

Multiemployer Plans (also known as Taft-Hartley Plans)

About

A multiemployer plan (not the same as a multiple employer plan or MEP) is an employee benefit plan shared by two or more employers, who are often in the same geographic area or industry, collectively bargained by a union on behalf of unionized workers. The benefits provided to workers—typically health insurance and/or retirement—are based on a negotiated hourly contribution made to the multiemployer plan on behalf of an employee by his or her employer. This provides a useful mechanism to share the costs of benefits when workers have multiple employers or regularly switch employers, as is often the case for actors or construction workers. These plans are only applicable to unionized workforces, and the terms are collectively bargained

75 U.S. Government Accountability Office. 2015. “[Social Security's Future](#).”

76 U.S. Social Security Administration. 2018. “[Fact Sheet: Social Security](#).”

About (continued)

between employers and unions. Policy—specifically the Labor Management Relations Act of 1947, or the Taft-Hartley Act—sets forth the structure of these plans, requiring that they be governed by a board comprised equally of employer and union representatives.

Significance

Multiemployer plans are a compelling model for the provision of benefits to non-traditional workers. The employer contributes a negotiated amount, but the benefits are administered by a third party and can be taken from job to job. In the case of industry-specific multiemployer plans, administrators may have the ability to develop offerings tailored for a discrete worker population which may share certain characteristics. For example, SEIU 775 Benefits Group covers home health care workers in the state of Washington. This population is disproportionately likely to get injured at work and has a higher than average incidence of slip, trip, and fall injuries. As a result, SEIU 775 Benefits Group negotiated coverage for a safety shoes benefit, which is a proactive and cost-effective way to prevent injury, rather than waiting to address injuries after they occur. However, there are limitations to expanding this model. Since they are only available to unionized employees, they are unavailable to many non-traditional workers. Expanding access to these plans would require either amending the Taft-Hartley Act, which governs them, or amending the National Labor Relations Act to facilitate the unionization of more non-traditional workers.

The Black Car Fund

<http://www.nybcf.org/>

About

The Black Car Fund was established in New York State in 1999 to provide workers' compensation insurance to "Black Car" (for-hire livery) drivers who are independent contractors and would otherwise not have access to traditional workers' compensation insurance. The Black Car Fund covers approximately 300 car-for-hire companies throughout New York State, with more than 130,000 affiliated drivers covered, including rideshare drivers, like those who work through Lyft or Uber. Although the for-hire transportation industry's drivers are independent contractors, for the purposes of the state statute, affiliated drivers are considered employees of the Fund for the purpose of accessing workers' compensation coverage if injured while working. The fund derives its income from a 2.5 percent surcharge on every ride, paid by the passenger, collected by member bases that dispatch drivers, and remitted to the Fund.

Significance The Black Car Fund provides a critical risk-pooled benefit to workers who would otherwise likely go without it. Indeed, workers' compensation is especially relevant for drivers, since transportation is one of deadliest industries in which to work.⁷⁷ This model could be considered for drivers in other states, in addition to workers in other sectors, with the caveat that it works best in industries with an auditable paper trail (as opposed to work that operates primarily on cash payments, such as babysitting), and would be most easily implemented in industries where work activity is already regulated and/or tracked, such as driving under the authority of a Taxi and Limousine Commission, or home health care as monitored for the purpose of Medicare and Medicaid payments. It is also worth noting that the for-hire transportation industry's structure—with companies aggregating drivers and managing the actual collection and remission of contributions—may make implementation and administration more straightforward than it would be in a disaggregated industry. In addition, the funding mechanism—a consumer surcharge—might increase private sector appetite for this type of solution relative to similar proposals which rely on a business tax or other employer contribution. However, it is worth noting that the Black Car Fund as currently designed is limited in its portability: the benefit is portable only within for-hire driving. If a driver has another source of income or changes careers, the benefit does not go with the driver.

Paid Family and Medical Leave

About Paid family and medical leave programs provide income replacement for people who cannot be at work because they are addressing a serious health condition (including pregnancy); caring for a family member with a serious health condition; addressing family circumstances arising from a service member's military deployment; or caring for a newborn, newly adopted child or newly placed foster child.⁷⁸ Starting with California in 2002, six states and the District of Columbia have passed paid family and medical leave programs⁷⁹ and policymakers continue to seek to expand paid family and medical leave; significant new benefits and protections have recently been proposed in

⁷⁷ Those in transportation and material moving occupations have a fatal work injury rate of 15.4 per 100,000 workers, second only to farming, fishing, and forestry occupations.
Bureau of Labor Statistics. "[Number and rate of fatal work injuries, by major occupational group.](#)" U.S. Department of Labor. Accessed April 30, 2019.

⁷⁸ National Partnership for Women and Families. 2017. "[Paid Family and Medical Leave: An Overview.](#)"

⁷⁹ States are California (2002), New Jersey (2008), Rhode Island (2013), New York (2016), Washington (2017), and Massachusetts (2018), in addition to the District of Columbia (2017).

About (continued)

California⁸⁰ and New York City.⁸¹ Programs vary substantially in the benefits provided, duration covered, and the balance of contributions from employers and workers. Many of these programs include an opt in for the self-employed.

Significance

As a social insurance program, paid family and medical leave is already portable and prorated. Current legislative activity around paid family and medical leave provides an opportunity to consider how to ensure this benefit is universal—and specifically, how it covers non-traditional workers. While all state programs guarantee automatic partial wage replacement for nearly all private sector employees including temp agency and sub-contracted workers, no implemented current program requires self-employed workers to buy coverage. California, New York, Washington, and the District of Columbia provide for self-employed workers to opt in to coverage if they choose. Rhode Island and New Jersey do not enable self-employed workers to participate, via an opt-in or otherwise. Massachusetts, which most recently passed a paid family and medical leave law as of this writing, provides for self-employed workers to opt in, but also includes a provision to automatically cover self-employed workers who work for businesses that rely heavily on independent contractor labor. Under this provision, companies that engage a workforce that is more than 50 percent independent contractors in a given year are treated as employers of those workers for the purpose of the law and are required to make the employer contribution to paid family and medical leave on their behalf. Innovation in policy design at the state level can inform efforts to enact paid family and medical leave at the federal level.

For more on paid family and medical leave for non-traditional workers, refer to policy briefs by Sherry Leiwant, Molly Weston Williamson, and Julie Kashen at *A Better Balance: “Paid Family and Medical Leave & Self-Employment”*⁸² and *“Paid Family and Medical Leave & Nonstandard Employees.”*⁸³

80 Office of Governor Gavin Newsom. 2019. [“Governor Newsom Proposes 2019-20 ‘California For All’ State Budget.”](#) State of California.

81 NYC Department of Consumer and Worker Protection. [“NYC’s Paid Safe and Sick Leave Law.”](#) City of New York.

82 Leiwant, Williamson, and Kashen. 2018. [“Paid Family and Medical Leave & Self-Employment.”](#) In *Constructing 21st Century Rights for a Changing Workforce: A Policy Brief Series*. A Better Balance.

83 Williamson, Leiwant, and Kashen. 2018. [“Paid Family and Medical Leave & Nonstandard Employees.”](#) In *Constructing 21st Century Rights for a Changing Workforce: A Policy Brief Series*. A Better Balance.

Healthy San Francisco

<https://healthysanfrancisco.org/>

About

Cities can also create and administer portable benefits. The most commonly cited example is the Healthy San Francisco model, a program created in 2006 through approval of the Health Care Security Ordinance by the city's Board of Supervisors. Implemented prior to the enactment of the Affordable Care Act, Healthy SF aimed to provide health care coverage to uninsured individuals ages 18-64, regardless of employment status, immigration status, or preexisting health conditions. At its peak, the program covered more than 50,000 individuals, almost 90 percent of uninsured adults in the jurisdiction.⁸⁴ Today, it is considerably smaller, as many of the intended recipients now receive coverage through Covered California, an Affordable Care Act state-based exchange. Healthy SF is funded by city and federal dollars, patient contributions, and fees from employers who do not provide health insurance to workers. Expenditures can be direct payment toward health insurance or a contribution to the City Pool, which funds both a coordinated health care program and individual medical reimbursement accounts. These individual medical accounts can receive contributions from multiple employers simultaneously or over time. Reimbursement accounts are administered by the San Francisco Health Plan, which is a government entity with an independent governance structure.

Significance

Cities may not offer appropriate scale for the provision of portable benefits, because cities may be places of work but not residence (or vice versa), and because services, such as the delivery of people or goods, may initiate in one jurisdiction and terminate in another. However, as Healthy SF shows, a city program can be a valuable precursor to a state or national approach. Local programs can also cover people who may be left out of state or federal programs, such as those who lack legal status. Moving forward, the City of San Francisco could use this existing account structure to deliver additional benefits to workers, and other cities could use this program as inspiration to create new benefits models for their residents.

⁸⁴ Katz and Brigham. 2011. "[Transforming A Traditional Safety Net Into A Coordinated Care System: Lessons From Healthy San Francisco.](#)" *Health Affairs*.

Affordable Care Act

<https://www.hhs.gov/healthcare/about-the-aca/index.html>

About

The Patient Protection and Affordable Care Act (ACA) was passed in 2010 and coverage expansions became effective in 2014.⁸⁵ The law aims to achieve near-universal health coverage for Americans from birth through retirement. One of its key mechanisms is the establishment of regulated health care exchanges, through which individuals can access affordable health insurance coverage outside of an employment relationship. This mechanism has been particularly valuable for non-traditional workers: independent contractors are over three times more likely than traditional employees to rely on ACA marketplaces, and online platform workers are almost four times more likely.⁸⁶

Significance

The ACA made health care benefits more universal; by mandating employers to provide coverage and requiring plans to cover dependents and individuals with pre-existing conditions, it expanded the number of Americans with coverage. Plans purchased on ACA marketplaces are portable, allowing plan holders to move between work arrangements without losing coverage. In addition, although employer-provided plans are not portable, those dependent on employer-provided plans can access ACA marketplaces should their employment situation change, meaning they can retain coverage while unemployed or job searching.⁸⁷ The ACA also made coverage more prorated by setting up a funding system that combines individual contributions with government subsidies, depending on eligibility.

85 Rosenbaum. 2011. "[The Patient Protection and Affordable Care Act: Implications for Public Health Policy and Practice](#)." *Public Health Reports*. U.S. National Library of Medicine, National Institutes of Health.

86 Jackson, Looney, and Ramnath. 2017. "[The Rise of Alternative Work Arrangements: Evidence and Implications for Tax Filing and Benefit Coverage](#)." Office of Tax Analysis, U.S. Department of Treasury.

87 Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), individuals can continue to purchase an employer-provided health plan after a disruption to employment at their own expense for up to 18 months. ACA marketplace plans offer a more sustainable and often affordable option.

Portable Benefits Bills Proposed in the State of Washington, with Related Bills in New Jersey and Georgia

About

During the three most recent legislative sessions (2017-2019), state policymakers in Washington have worked to advance a first-of-its-kind portable benefits proposal to improve benefits availability and coverage for independent contractors. The legislation has evolved from year to year—adding provisions related to worker classification in 2018 and wage boards⁸⁸ in 2019⁸⁹—but the basic portable benefits elements have remained the same:

- Entities that facilitate the hiring of independent contractors, including online platforms, would be required to contribute a certain percentage on top of an independent contractor's earnings to a benefits administrator, or "qualified benefits provider"
- The fee may be passed through to the end customer
- The contribution may not be used against the company in the case of misclassification litigation, but any other actions by employers could still be used to make worker classification determinations
- All benefits administrators would operate under governance requirements, including: the administrator must be a 501(c)(3) nonprofit, it must have a fiduciary duty to its beneficiary population, and it must be governed by a board with worker representatives comprising at least half of its membership
- The administrator is required to provide workers' compensation coverage, and is directed to seek feedback from its beneficiary population as to what additional benefits they wish to access

The Washington bill has inspired state lawmakers elsewhere: in 2017, Troy Singleton, at that time a member of the New Jersey General Assembly, introduced a bill with language almost identical to that of the 2017 Washington bill; and in 2018, Singleton re-introduced the legislation in his new role as State Senator, while two democratic colleagues introduced a companion bill in the state Assembly.⁹⁰ Georgia State Senator Elena Parent also introduced related legislation in 2018.⁹¹

⁸⁸ For more on wage boards, see: Madland. 2018. "[Wage Boards for American Workers: Industry-Level Collective Bargaining for All Workers](#)." Center for American Progress.

⁸⁹ State of Washington. "[HB 1601 - Creating the universal worker protections act](#)." 66th Legislature. Introduced January 25, 2019.

⁹⁰ State of New Jersey. "[S67 - Establishes system for portable benefits for workers who provide services to consumers through contracting agents](#)." 218th Legislature. Introduced January 9, 2018.

⁹¹ State of Georgia. "[SB 475 - Independent Contractors; certain employment benefits; funding; administration; and eligibility; provide](#)." 2017-2018 Regular Session. Introduced February 21, 2018.

Significance The Washington legislative activity, as well as that in New Jersey and Georgia, has presented the first comprehensive vision for a new, policy-created portable benefits system. It answers the key questions: what benefits will be provided, who will be eligible, who will pay (and how much), and what type of entity will administer benefits. Arguably, this particular proposal resolves these questions with a worker-centric orientation; business might have a different conception of how to strike the right balance. The legislative activity in Washington has also spurred important conversations by stakeholders across sector, through both formal legislative hearings and more informal gatherings. The evolution of the Washington legislation has also captured the attention of key stakeholders outside government: in January 2018, then-SEIU 775 President David Rolf, investor Nick Hanauer, and Uber CEO Dara Khosrowshahi signed a letter in which they called on business, labor, and government to work together to address the benefits access challenges of non-traditional workers.⁹²

State-Facilitated Retirement Programs (including Secure Choice)

About In order to address the inadequate retirement savings of millions of workers, ten states and one city have recently passed legislation creating state-facilitated retirement savings programs for private-sector workers, often called “Secure Choice” programs. Most commonly, these programs create a payroll-deduction IRA overseen by the state, and require businesses of a certain size to either auto-enroll employees in these accounts, or to offer an alternative retirement savings plan. Other models introduce marketplaces to match smaller employers with savings plans, while others create ERISA-compliant multiple employer plans (MEPs) that allow employer contributions.⁹³ In several states, independent contractors are invited to open accounts, including California and Oregon.

92 Rolf, Khosrowshahi, and Hanauer. 2018. “[Building a portable benefits system for today's world.](#)” Uber.

93 For more information on state-level retirement programs, see Georgetown Center for Retirement Initiatives. 2018. “[State-Facilitated Retirement Savings Programs: A Snapshot of Plan Design Features.](#)” State Brief 18-03. McCourt School of Public Policy.

About (continued)

Auto-enrollment IRAs		
Oregon	OregonSaves	Launched 2017
Illinois	Illinois Secure Choice	Launched 2018
California	CalSavers	Launching 2019
Connecticut	Connecticut Retirement Security Program	Launching 2019
Maryland	Maryland Small Business Retirement Savings Program	Launching 2019
New Jersey	New Jersey Secure Choice Savings Program	Launching 2021
Seattle	Seattle Retirement Savings Plan	Launching 2019
Voluntary payroll-deduction IRA		
New York	New York State Secure Choice Savings Program	Launching 2020
Retirement marketplaces		
Washington	Small Business Retirement Marketplace	Launched 2018
MEPs		
Vermont	Green Mountain Secure Retirement Plan	Launched 2019
Massachusetts	Massachusetts CORE Plan	Launched 2017

Significance Most state-facilitated retirement programs are highly portable; once an account holder begins saving, they can contribute earnings from any work. The account mechanism and administration infrastructure could theoretically be expanded to include other types of savings, such as emergency or short-term, as well as to offer access to insurance products. Any state with an existing program could consider expanding eligibility to include independent contractors, as well as other types of non-traditional workers if they are not otherwise included. Most of the programs in operation today are IRAs, which prohibit employer contributions, such that workers are fully responsible for contributions. Programs in Vermont and Massachusetts are unique in that they offer 401(k) plans, into which employers can contribute into employees' accounts.

In addition to state-level programs, a range of portable retirement programs have been introduced at the federal level, including auto-enrollment IRA legislation mirroring state-level programs.⁹⁴

⁹⁴ For an overview of federal retirement proposals, see Pew Charitable Trusts. 2018. "[Will Congress Act on Retirement Savings? A summary of current legislative proposals.](#)"

Non-Policy Models

Freelancers Union

<https://www.freelancersunion.org/>

About

Freelancers Union was formed in 1995 to represent the interests of freelancers in the United States through policy advocacy, benefits offerings, and community. In 2008, Freelancers Union launched Freelancers Insurance Company to provide freelancers with high-quality, affordable, and portable health insurance. Today, individuals may purchase the benefits at rates negotiated by Freelancers Union, including health, dental, disability, term life, liability, and retirement.

Significance

Freelancers Union developed one of the first benefits offerings for independent contractors, and provides a selection of benefits comparable to that offered by many employers. This model may work extremely well for some freelancers, especially those with enough discretionary income to cover the expense of benefits. However, this model does not currently provide for contributions from employers or other stakeholders, making it a more difficult fit for those with lower income who may not have enough disposable income to pay for benefits that they may view as optional.

National Domestic Workers Alliance/Alia

<https://www.myalia.org/>

About

The National Domestic Workers Alliance (NDWA) is a nonprofit organization that advocates for labor protections for domestic workers including home cleaners, childcare providers, and elder care providers. Founded in 2007, NDWA introduced a low-cost individual membership program in 2016. Members have access to vision discounts, prescription discounts, life insurance, hearing aids and screening, as well as other benefits and perks.

In 2018, NDWA Labs launched Alia, an online platform that facilitates benefits for cleaners through voluntary customer contributions. Participation in Alia is voluntary for both customers and cleaners. Home cleaners who use Alia can access paid time off, accident insurance, critical illness insurance, life insurance, and disability insurance. In February 2019, Alia announced a partnership with Thumbtack, an online marketplace for local services, which allows Thumbtack customers in California and New York to contribute to home cleaners' benefits through Alia.

Significance The National Domestic Workers Alliance is notable in this context because they have been successful in organizing a population that has previously been very difficult to organize. Members of NDWA can access benefits, including vision discounts, prescription discounts, life insurance and others. Through collective action, NDWA has been successful in advocating for Domestic Workers Bills of Rights in eight states and one municipality.

Alia is a valuable model because it is the effort of a worker-representative organization, and reflects both the organization's support for the idea of portable benefits as well as a deep focus on their member-user in the development of the product, offering and experience. In addition, this model is especially valuable because domestic workers have traditionally been excluded from benefits and protections. As a voluntary program, its success could help demonstrate demand for portable benefits. Key levers to scale include major partnerships and policy change to establish a benefits mandate for which Alia could be a solution provider.

Stride

<https://www.stridehealth.com/>

About

Launched in 2013, Stride is a company that provides a platform for non-traditional workers, including independent contractors and part-time workers, to search and compare options and to purchase health coverage and other benefits. Over the last five years, Stride has launched additional offerings, including tax-related mileage and expense tracking; dental, vision, accident, term life and disability insurance; and Health Savings Accounts and other short and long-term savings options. Stride also partners with on-demand marketplaces, consumer finance platforms, and other large organizations to connect certain members of their workforce with health coverage options.

Significance Stride is a concrete model for how benefits access could work for non-traditional workers; indeed, many people have used Stride to purchase one or more types of coverage for more than five years. However, critics have raised questions about whether Stride—or other revenue-generating organizations, both for-profit and nonprofit—will always present equally all available plans, given the opportunity to prioritize plans where an organization receives greater commissions. Although Stride identifies and helps individuals utilize available government subsidies, Stride's model is currently designed to take payment from workers only; it does not currently enable contributions from employers.

Care.com Benefits

<https://www.care.com/caregiver-benefits-p1087-q82066561.html>

About

Care.com is the world's largest online destination for finding and managing family care, with 18.3 million families and 13.4 million caregivers across more than 20 countries, including the U.S., U.K., Canada and parts of Western Europe. Since 2016, when families pay caregivers through Care.com's payments platform, a percentage of the transaction fee paid by the family converts to Care Benefit Bucks, and families have the option to double the percentage. Workers can receive contributions from multiple families, and these pooled funds are portable, remaining with workers as they move from one job to the next. Through Care.com Benefits, caregivers can use Care Benefit Bucks to pay for things like health insurance, doctor visits, prescriptions, transportation expenses, and education, up to \$500 total per year.

Significance

Care.com Benefits is interesting because Care.com is an online platform that has both built a benefits offering for the workforce on its platform and shares the cost of contributing to those benefits with care providers' clients. Presumably, Care.com has elected to take this approach because it enhances the platform's value for participants (perhaps especially care providers, who may be more likely to seek work on the platform as a result). Care.com's leadership is particularly notable against the historical backdrop in which domestic workers have been explicitly excluded from most work-based benefits and protections.

Independent Drivers Guild/Workers Benefit Fund

<https://drivingguild.org/>

<https://workersbenefitfund.com/>

About

The Independent Drivers Guild (IDG) is a Machinists Union affiliate that organizes and supports app-based drivers. Created in 2016, IDG is a nonprofit organization that has grown to count more than 65,000 for-hire drivers as members. IDG advocates for drivers in policymaking and regulatory contexts as well as in direct negotiations with Uber. In addition, IDG offers benefits to its members. Paid for by funds collected under the Black Car Fund surcharge, IDG members have access to vision and telemedicine benefits. Benefits are administered by the for-profit Workers Benefit Fund.

Significance The Independent Drivers Guild is noteworthy because it is a new type of institution working to deliver beneficial outcomes for workers, including extending certain benefits to workers who would otherwise not have access to them. It is also the first non-union worker organization to be recognized by an online platform company, Uber. There are indications that workers can achieve beneficial outcomes under this type of structure: in addition to the thousands of drivers who can now get glasses or consult a doctor as their schedule permits, the work of the Guild successfully advocated for a first-of-its-kind pay standard for app-based drivers in New York City⁹⁵ and secured in-app tipping.⁹⁶

Multiple Employer Plans

About A multiple employer plan or MEP (not the same as a multiemployer plan) is a retirement savings plan sponsored jointly by two or more distinct employers. Historically, MEPs have been “closed,” or limited to employers that have shared interests, such as being members of a trade association or being owned by the same entity. “Open” MEPs, in concept, would not restrict sponsoring employers. Although currently not permitted under federal law, state and federal policymakers, employers, and financial institutions have recently shown interest in exploring open MEPs.

Significance MEPs can allow businesses to band together, reducing the cost and liability of providing retirement plans to workers—which is especially attractive for small businesses that may otherwise be unable to offer plans. As such, they hold potential to increase overall access to employer-sponsored retirement, especially if combined with auto-enrollment.

The extent to which MEPs can make retirement benefits more portable depends on the breadth of workers and employers covered by such plans. If state-run retirement plans follow an MEP model, for example, workers who live and work in that state can take their retirement savings with them through their career, regardless of job or industry. If an MEP is only adopted by a small number of employers, though, workers are unlikely to carry their plan with them over a career. In addition, should an employer stop participation in an MEP, disbursement or rollover of workers’ accounts can be even more complex than it is for single-employer plans.

95 New York City Taxi and Limousine Commission. 2018. [“TLC Announces Passage of Sweeping Rules to Raise Driver Earnings.”](#)

96 Huston. 2017. [“Uber Adds Tipping to its App as it Tried to Make Broader Changes to its Culture.”](#) MarketWatch.

Trupo

<https://www.trupo.com/>

About

In July 2018, Freelancers Union founder Sara Horowitz launched a new, venture-backed company, Trupo, to provide short-term disability insurance designed specifically for freelancers. Users decide how much of their average income they want to insure and pay a monthly premium. In return, if an illness or injury keeps them from working for more than a week, Trupo kicks in and sends up to 50 percent of their normal income for up to three months. The offering is being piloted in Atlanta and plans to expand to New York.

Significance

As of this writing, Trupo is still in its earliest stages, so it is a challenge to evaluate it. The model has a relatively unique governance structure—it is structured as a for-profit and has the backing of a top-tier venture capital firm, indicating that it is capitalized for scale and efficiency, and also has Freelancers Union, a worker advocate 501(c)3, as a partial owner. Finally, it will be interesting to see whether their messaging—“the best way for freelancers to protect their own financial independence is to help other freelancers protect theirs”—can instill a sense of collective responsibility that might be transferable to other models.

International Models

Other countries may have very different laws and regulations governing work, employment and benefits. However, some examples provide useful insight about portable benefits approaches.

The Ghent System

About

The Ghent system is a publicly subsidized unemployment insurance system commonly administered by trade unions in Nordic countries. It is named after the city of Ghent, Belgium, which first introduced this type of program in 1901. The voluntary system operates in Denmark, Finland, Iceland, and Sweden. Belgium operates a compulsory quasi-Ghent system that incorporates retirement benefits. Membership fees comprise only a small

About (continued)

portion of unemployment benefits, with employees, employers, and the government (in the form of tax subsidies) also contributing to the cost. The majority of contributions come from government subsidies and a payroll-based employer tax. The cost per participant is based on a combination of their income and the sector to which they belong. Plans require higher contributions for workers in high-unemployment sectors (e.g., musicians) than those in low-unemployment sectors (e.g., finance). Generally, fees for workers to join the plan are low and tax-deductible. Those who choose not to participate through a union pay a lower fee and, if they become unemployed, receive a lower-level basic benefit.⁹⁷

Significance

Under this system, unemployment insurance coverage rates are very high, even though participation is voluntary, not mandatory. This is attributed to the low cost of participating in the program as well as the efficiency and ease of enrolling under union administration. Indeed, unions have deep experience delivering programs and benefits to working people and, in part based on the value that this program delivers, it has been proven to improve union density. For the purpose of exploring this model for the United States, advocates are interested in unemployment insurance specifically in part because states have significant latitude to experiment with its delivery.

Singapore SkillsFuture Credit

<https://www.skillsfuture.sg/>

About

In 2015, Singapore introduced SkillsFuture, an effort to increase lifelong learning and skills training across occupations jointly overseen by the Ministry of Education and a council comprised of government, industry, labor union, and education representatives. The program is best known for its SkillsFuture Credit—a benefit of S\$500 (roughly US\$363) for all Singaporeans age 25 and older to be used on a range of approved skill-development courses. The credit does not expire and will be topped up periodically by the government. In 2018, 465,000 Singaporeans—about 20 percent of the workforce—used their SkillsFuture credits. In addition to the individual credit, the SkillsFuture initiative includes internship and apprenticeship programs, scholarships, career guidance, employer incentives, subsidized training, and more.

⁹⁷ Adapted from “Portable Benefits in the 21st Century.” Rolf, Clark, and Watterson Bryant. 2016. “[Portable Benefits in the 21st Century: Shaping a New System of Benefits for Independent Workers](#).” Aspen Institute Future of Work Initiative.

Significance SkillsFuture is one of the few programs to think about workforce training as a portable and universal benefit. By combining a credit for workers with subsidies for employer-provided training, the program distributes the cost of training between government, workers, and employers. Given rising interest in lifelong learning and workforce training needs, SkillsFuture could serve as a valuable model for policymakers around the world.

Uber Partner Protection (Europe)

<https://www.uber.com/en-GB/drive/insurance/>

About In June 2019, the rideshare company Uber introduced injury insurance and sickness and parental leave options for drivers in 18 European countries, called “Partner Protection.” These products, offered through a partnership with AXA, a private insurance company, are offered at no additional cost to independent contractor drivers and couriers working on the platform. All drivers are protected against medical expenses incurred while on trips, in addition to lost income payments when an injury incurred on-trip prevents them from working. They (or their beneficiaries) also receive a one-time lump-sum payment in the case that an on-trip accident results in death, permanent disability, or hospitalization. If drivers have completed 150 trips over the past eight weeks, they are also eligible for up to 15 paid sick days, and a one-time payment for the arrival of a new child.

Significance Uber’s European program is an example of policy prompting employer-funded benefits for a group of non-traditional workers. The program was initially launched in 2017 in France in order to comply with a new regulation requiring platforms and marketplaces to offer a form of workers’ compensation if they facilitated the hiring of more than 6,000 workers per year.⁹⁸

The program has received a mixed response, especially from worker advocacy groups. Although offering some benefits that were unavailable to these workers beforehand, the program is limited and still leaves independent drivers with fewer benefits and protections than employees.

⁹⁸ Decree number 2017-774 of May 6, 2017 on the social responsibility of electronic connection platforms (in French) <https://www.legifrance.gouv.fr/eli/decret/2017/5/4/ETST1710240D/jo/texte>.



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