

# Portable Benefits

Policy Brief :: Last Updated 4.13.17

## TL;DR

During the past decade, more and more workers have shifted from traditional full-time work to contract work. In fact, by 2020, it's [estimated](#) that more than 40% of the American workforce, or 60 million people, will be independent workers without a single employer. Those workers may gain in flexibility, but many will lose in traditional protections like employer-sponsored insurance and other benefits. The future of work looks different than its past; we must find a way to protect workers without a single, steady employer by providing portable benefits.

## Current State of the Law

Currently, a worker can be classified as either a full-time employee or a contractor. (You might hear them called W2 and 1099 workers, respectively—these terms originate from what kind of tax form an individual has to file with the IRS.) For full-time employees, payroll taxes are automatically deducted from payroll and paid to the government. Full-time employees also enjoy certain legal protections and employer-based benefits—think health care, retirement, paid leave, vacation time—that contract workers lack. Contract workers, on the other hand, benefit from the flexibility that comes with being your own boss and setting your own hours.

The trend toward more contract workers has been increasing for many years. However, high-profile tech companies that create platforms for workers (e.g., Uber, Handy, Postmates, and others) have brought a renewed focus on what contract work actually means for those workers.

The law currently prescribes who is a full-time worker and who is a contractor. Yet as a result of this law, companies that use 1099 workers are precluded from providing any type of benefits or training without risking running afoul of the full-time/part-time test. The economics of many companies make shifting workers to W2 impossible, not to mention that many part-time workers prefer the flexibility. Which means companies that enable part-time work and want to help workers with access to benefits and training are legally precluded from doing so.

## A Better Way

We need a new approach for how independent workers can access benefits. This would allow independent workers to set aside a portion of earnings and direct that money towards benefits of their choosing. These proposals would also allow businesses to participate in these programs through matching or otherwise without worrying about running afoul of the full-time/part-time workers' test. The benefits accounts would be portable, so workers could contribute to the account regardless of the business with which he or she works.

## Where We Are

Earlier this year, Governor Cuomo announced a statewide task force, which, in his words, is “charged with making recommendations to ensure all workers have affordable access to benefits.” We are glad to see interest, but also hope for real legislation—beyond the task force—that enables portable benefits to become law across New York State soon.

## Further Reading

1. Sophie Quinton, “With Growth of the Gig Economy, States Rethink How Workers Get Benefits” The Pew Charitable Trust (Feb. 22, 2017) <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/02/22/with-growth-of-the-gig-economy-states-rethink-how-workers-get-benefits>
2. U.S. Government Accounting Office “Contingent Workforce: Size, Characteristics, Earnings and Benefits” (April 20, 2015) <http://www.gao.gov/assets/670/669899.pdf>.
3. Etsy, “Economic Security for the Gig Economy: A Social Safety Net for Everyone Who Works” (Fall 2016) [https://extfiles.etsy.com/advocacy/Etsy\\_EconomicSecurity\\_2016.pdf](https://extfiles.etsy.com/advocacy/Etsy_EconomicSecurity_2016.pdf).