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AUTHOR Chalfie, Deborah, Ed.; Dodson, Diane, Comp.

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ABSTRACT

In an effort to pare labor and benefits costs, many businesses and government employers have significantly reduced the size of their permanent, full-time work forces in favor of a part-time work force and various types of contingent workers: independent contractors, temporary workers, on-call workers and day laborers, and leased workers. Contingent work arrangements have especially significant implications for today's and tomorrow's midlife and older women. Whether by choice or not, women of all ages are much more likely than men to work in contingent jobs. Contingent workers face lower earnings, fewer benefits and legal rights, truncated career paths, and dimmer prospects for retirement income security. Laws protecting U.S. workers were designed with traditional, full-time employees in mind. Consequently, many contingent workers do not receive the same protection as their full-time counterparts. Because nonemployees can find also find themselves without occupational health and safety protections, civil rights protections, and collective bargaining rights, it is very important that employers not misclassify their employees as independent contractors. Federal labor legislation should be amended to extend the same protections to workers in continency arrangements that are now guaranteed to traditional full-time workers. (Contains 17 references.) (MN)

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

WYOMIEN'S UNITUATIWE FACT SHIEET

The Contingent Workforce

Implications for Today's and Tomorrow's Midlife and Older Women

 he contingent workforce1 --part-time workers, independent contractors, temporaries, day laborers, and others — has grown dramatically since 1980, although the rate of growth has slowed recently.2 Several business and government employers have significantly reduced the size of their permanent, full-time workforces in favor of arrangements that permit them to pare labor and benefits costs and respond quickly to changing conditions. Hiring contingent workers is one way employers can do both.

Contingent work arrangements have especially significant implications for today's and tomorrow's midlife (age 45-64) and older (age 65 and up) women. A significant number of midlife and older women are contingent workers. Moreover, whether by choice or not, women of all ages are

Types of Contingent Employees

Part-time workers: Those who usually work 34 or fewer hours per week.

Alternative Work Arrangements:4

- **Independent Contractors.** Selfemployed workers who identify themselves as independent contractors, consultants, or freelance workers but not as business operators, such as shop or restaurant owners.
- *Temporary Workers*. Workers who are paid by temporary help agencies, not by the company where they actually work. ⁵
- On-Call Workers & Day Laborers. On-call workers are those called to work from a pool as needed (e.g., substitute teachers); day laborers are those hired at a pick-up site to work by the day.
- Leased Workers. Those who are employed by an employee leasing firm or labor contractor and who (usually) provide services to only one customer at the customer's worksite for the duration of the contract (e.g., security guards).

much more likely than men to work in contingent jobs.

This is partly because women are concentrated in the kinds of traditionally female occupations (administrative support, sales, services) that are often configured as contingent.3 They may want but cannot find full-time, permanent work. Conversely, because women still perform a disproportionate share of child-rearing and family caregiving, many prefer the flexibility or shorter hours contingent work offers.

Either way, contingent workers face lower earnings, fewer benefits and legal rights, truncated career paths, and dimmer prospects for retirement income security, deficiencies that come home to roost in women's midlife and retirement years.



Midlife and Older Women in the Contingent Workforce

- Midlife and older women are just slightly over-represented in the contingent work-force.⁶ Older women represent only one percent of all employed workers,⁷ but they are three percent of all contingent workers.⁸ Midlife women represent 13 percent of all employed workers,⁹ vs. 15 percent of the contingent workforce.¹⁰
- Still, contingent work is the predominant form of employment for older women, and represents a common type of work for midlife women. Seven in 10 older women and almost three in 10 (29 percent) midlife women employed in 1995 were members of the contingent workforce. In all, nearly 5.8 million women 45 and older are contingent workers. 11
- Midlife and older women are more likely than men their age to be contingent workers. Twenty-nine percent of women workers 45-64 are in the contingent workforce, compared to only 18 percent of men workers this age. Similarly, 70 percent of older women workers are contingent, compared to 61 percent older men workers. 12

PART-TIME WORK

■ By far, the most prevalent type of contingent employment for midlife and older women is part-time work. Of the more than 4.7 million midlife women who have contingent jobs, 83 percent are part-time workers. This proportion increases to 96 percent for older women

workers, with just about one million employed part-time.¹³

■ Midlife and older women are more likely than men to work part-time. Twenty-four percent of all midlife women workers vs. only seven percent of midlife men workers are part-timers. More than two-thirds (68 percent) of older employed women work part-time, compared to just half of older employed men.¹⁴

ALTERNATIVE WORK ARRANGEMENTS

- Midlife and older women are less likely than men to be employed in alternative work arrangements. Only five percent of midlife women workers and three percent of older women workers hold full-time alternative jobs. By contrast, 11 percent of midlife men workers and 10 percent of older men workers hold full-time alternative jobs. 15
- The vast majority of midlife and older women and men who work in alternative work arrangements are independent contractors. About seven in 10 (69 percent) of the 45+ women and more than eight in 10 (84 percent) of the 45+ men in all alternative jobs are independent contractors. However, midlife and older women are nearly three times as likely as their male counterparts (eight vs. three percent) to work for a temp agency. ¹⁶

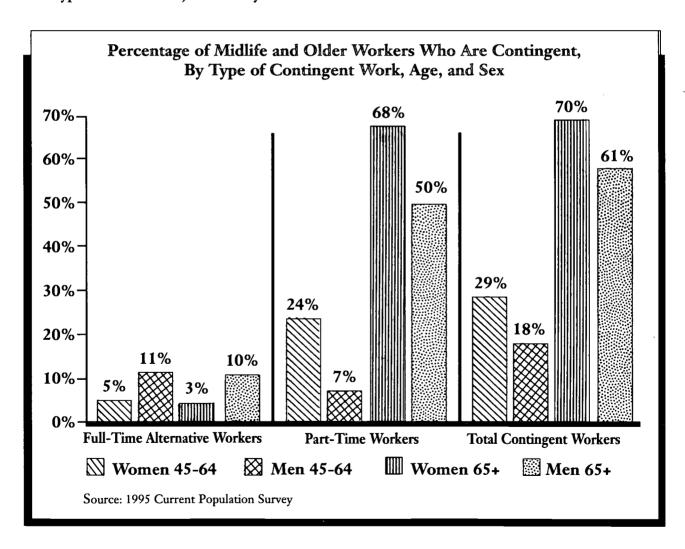


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- Midlife and older women of color are less likely than white women to work in alternative jobs. Five percent of midlife black women and six percent of midlife Hispanic women work in alternative work arrangements, compared to 10 percent of midlife white women. Similarly, nine percent of older black women and 10 percent of older Hispanic women hold alternative jobs, compared to 16 percent of older white women.¹⁷
- There are significant differences by race in the types of alternative jobs held by midlife

and older women. Among alternative workers, midlife and older black women (46 percent) are far less likely than their white (70 percent) and Hispanic (73 percent) counterparts to be independent contractors. Black (26 percent) and Hispanic (21 percent) women 45 and older are far more likely than 45+ white women (six percent) to work for a temporary agency. Moreover, about one-fifth of midlife and older black and white women work in on-call jobs, yet virtually no 45+ Hispanic women do so. 18





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Voluntary vs. Involuntary Contingent Work

key issue is the extent to which contingent workers have "voluntarily" chosen such jobs or hold them because they have been unable to find permanent, full-time work. Most midlife and older contingent workers have chosen their jobs and enjoy the flexibility they afford.

Yet, the terms "voluntary" and "involuntary" mask the fact that even those who prefer shorter or flexible hours would surely prefer greater earnings, benefits, and job protections. Furthermore, "choice" terminology is problematic in reference to women in particular, who might otherwise "prefer" a traditional job but for their "choice" to care for children or ill family members. Besides family caregiving obligations, declining health, job discrimination, and the Social Security earnings limit are factors that may compel some older women to settle for contingent jobs.

■ Women's caregiving obligations sometimes make contingent work a necessity. Women constitute three-fourths of all unpaid caregivers to adults 50 and older, and about two-thirds of these caregivers are employed at the same time. ¹⁹ In a recent small study of 305 employees coping

with eldercare responsibilities, 48 percent had consequently rearranged their hours and 15 percent had reduced their hours.²⁰

- Midlife women are more likely than older women to be working part-time involuntarily. Twelve percent of midlife women part-time workers are working part-time involuntarily, compared to only three percent of older women part-timers. However, midlife men part-timers are more than twice as likely as midlife women (26 vs. 12 percent) to be working part-time involuntarily. 22
- Among women workers in different types of alternative work arrangements, the "voluntariness" of their contingent work varies. More than eight in 10 (81 percent) women 20 and older who are independent contractors prefer alternative work arrangements, ²³ with 88 percent citing factors like family and personal obligations and child care problems for their "choice" of employment. ²⁴ By contrast, more than half (56 percent) of 20+ women who work for temporary help companies do so because it is all they could find or they hope it will lead to permanent employment. ²⁵



Contingent Work & Economic Security

uring the time they work in contingent jobs, women of all ages are keenly aware of their lack of economic security. What they might not realize is that they may also be undermining their economic security in their later years. Social Security benefits and pensions—to the extent they are provided at all—as well as the ability to save for retirement, are all based on earnings history and workforce attachment.

EARNINGS

- Women part-timers receive lower hourly wages, on average, than full-time workers. In 1993, the median hourly earnings of women part-time workers 16 and older was \$5.75/hour only 72 percent of the \$7.94/hour earned by full-time women workers paid by the hour. Among men, the pay differential is even larger; part-time men made a median of only \$5.19/hour, compared to \$9.89/hour for full-timers. ²⁶
- Women in alternative work arrangements also earn less. Women workers 20 and older in alternative jobs have median weekly earnings of \$211, compared to \$355 for their traditional counterparts. This disparity persists even after controlling for full- and part-time status. Women working full-time in alternative work arrangements have median weekly earnings of \$303 vs. \$411 for traditional full-timers. Among those women who work both part-time and in alterna-

tive work arrangements, the gap narrows to \$121 for alternative part-timers vs. \$138 for traditional part-timers.²⁹ In all these alternative situations, men make more than their female counterparts.³⁰

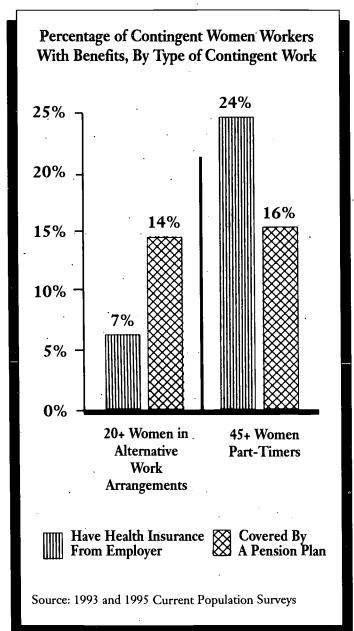
HEALTH BENEFITS

- Employer-provided health insurance is rare for alternative workers. Among women 20 and older employed in alternative work arrangements, only seven percent have health insurance through their employers, compared to 55 percent of the 20+ women in traditional job arrangements. Men in alternative work arrangements are similarly disadvantaged: just eight percent get health insurance from their employers. 31
- Part-time workers are better off, but not by much. Only 24 percent of midlife and older women part-timers have health insurance coverage through their employers, compared to 63 percent of midlife and older women working full-time. By contrast, 32 percent of 45+ men part-timers have employer-provided insurance. 32
- For many, contingent status is the reason they are uninsured. Among 20+ women in alternative jobs without employer-provided insurance, 29 percent said the employer offered health insurance but that they weren't eligible due to contingency-related reasons: they did not work



enough hours or as contract workers and temporaries they were excluded.³³ Women in alternative work arrangements (28 percent) are also more than twice as likely as women in traditional work arrangements (13 percent) to lack health insurance from any source.³⁴

■ Midlife women are especially vulnerable to being uninsured. Because older women in the contingent workforce have access to Medicare, virtually none are uninsured. However, 16 percent of midlife women part-time workers lack insurance from any source, compared to 10 percent of their full-time counterparts.³⁵



RETIREMENT INCOME

- Contingent workers are less likely to be covered by a pension plan. Only 16 percent of midlife and older women who work part-time are covered by a pension plan (covered means they will get a pension if they stay with the employer long enough to vest) whereas 57 percent of their full-time counterparts are covered. Similarly, only 14 percent of women 20 and older who work in alternative work arrangements are covered by a pension from their employer, vs. 49 percent of their traditional counterparts. The state of the covered by a pension from their employer, vs. 49 percent of their traditional counterparts.
- This lower coverage is partly because companies that employ contingent workers are less likely to offer pension plans. Only one-third of midlife and older women employed part-time work for companies that offer a pension, whereas close to two-thirds (63 percent) of midlife and older women full-timers work for firms that offer pension plans. 38 Likewise, 38 percent of 20+ women in alternative work arrangements work for firms with a pension plan, compared to 64 percent of 20+ women in traditional jobs. 39
- Lower coverage is also caused by eligibility rules that exclude contingent workers. Of the midlife and older women



part-timers who work for firms with pension plans, 61 percent⁴⁰ are excluded because they work less than the 1,000-hours-per-year minimum (20 hours or more per week) needed to become eligible for coverage.⁴¹ Women in alternative work arrangements have the same problem. Of those 20 and older who work for firms with plans, 53 percent aren't covered because the eligibility rules exclude them; only 14 percent of their traditional counterparts are disallowed.⁴²

- Among part-timers, women are more likely than men to be covered by a pension, but among alternative workers, men are more likely to be covered. Only 11 percent of 45+ men part-time workers vs. 16 percent of 45+ women part-timers are covered by a pension plan. By contrast, among 20+ women and men who work in full-time alternative work arrangements, 18 percent of men vs. 14 percent of women are covered.
- Many women also lose out on Social Security protection because they hold "invisible" contingent jobs in people's homes. Women — particularly women of color and midlife and older women — dominate many domestic jobs like house-cleaners, nannies, and home health care aides.⁴⁵ These jobs can be regular or episodic, but they are often less than full-time with any one employer. Consequently, they are the kinds of jobs most susceptible to evasion from or falling below the threshold for the requirement to withhold Social Security payroll taxes. Either way, women who have been long-time domestics can find themselves with little or no Social Security credits of their own at retirement — a real calamity for women who are

also not entitled based on a spouse's work record.

LEGAL PROTECTIONS

Laws protecting American workers were designed with traditional, full-time employees in mind. As a result, many contingent workers do not receive the same protections.⁴⁶

Independent contractors, because they are not considered "employees" at all, have few worker protections. For example, the companies for whom they work are not required to make any Social Security contributions on their behalf; instead, the contractors must pay the entire amount. Non-employees can also find themselves without occupational health and safety protections, civil rights protections, and collective bargaining rights. Because of these consequences, it is very important that employers not misclassify their employees as independent contractors.

Working too few hours is another way contingent workers can lose legal protections. For example, many contingent workers have difficulty meeting the minimum hours and earnings requirements needed to collect unemployment insurance. Those who work part-time for one employer, those who work a short time or a few hours for many different employers, and those who earn less income as a result of their shorter schedules all fit this bill. By the same token, because an employee must work at least 1,250 hours per year (25 hours/week) for the same employer to be eligible for job return rights under the Family and Medical Leave Act, many part-time and other contingent workers are denied this key job protection.



Options for Change

ecause so many women are employed in the contingent workforce, improvements in the pay, benefits, and legal protections available to contingent workers are of special importance to the midlife and older women of today and tomorrow. Though not necessarily the public policies of AARP, the following reforms have been recommended by advocates to benefit various segments of the contingent workforce:

Amend the Equal Pay Act to prohibit discrimination in hourly wages between part-time and full-time workers who do the same work.

Increase the minimum wage.

Require employers who offer pensions to provide pro-rated benefits to workers meeting lower job duration and hours-of-work requirements.

Create a health care system in which coverage is not dependent upon a full-time relationship with one employer.

Amend the Family and Medical Leave Act to ensure protection for workers with shorter job tenure and fewer annual hours.

Change federal and state unemployment laws to reduce the minimum earnings thresholds that prevent many part-time and temporary workers from receiving benefits; permit workers who lost a part-time job and seek a new part-time job to collect unemployment benefits.

Amend the National Labor Relations Act to protect the right of part-time and temporary workers with an ongoing relationship with their employer to participate in appropriate collective bargaining units.

Improve federal law enforcement to make it more difficult to misclassify employees as independent contractors.

Extend anti-discrimination laws to independent contractors by prohibiting discrimination in the selection of contractors.

Amend federal law to extend health coverage and pension protections to independent contractors who are the functional equivalents of employees (perform services typically performed by employees in that industry and provide services to an employer over an extended period of time in substantial quantities).



Endnotes

¹ The experts who study the contingent workforce often use different definitions of what jobs count as "contingent." For instance, the Bureau of Labor Statistics (BLS) reserves the term "contingent" for people who, for whatever reason, expect their jobs to end in a year or less. It collectively refers to independent contractors, temporary workers, oncall workers, day laborers, and workers leased out by contract firms as workers employed in "alternative work arrangements." Bureau of Labor Statistics, U.S. Dept. of Labor, Contingent and Alternative Employment Arrangements, Report 900, pp. 1-3 (Aug. 1995) [hereinafter referred to as Report 900]. Others use the term contingent to cover any arrangement other than the "traditional" one in which a worker is hired by and works full-time for one employer with an understanding of ongoing long-term employment. See, e.g., Richard Belous, "The Rise of the Contingent Work Force: The Key Challenges and Opportunities," 52 WASH. & LEE L. REV. 863, 864-65 (1995) [hereinafter referred to as Belous]. This fact sheet embraces a broad definition. Here, contingent includes 1) all part-time workers plus 2) those who work in what BLS calls "alternative work arrangements" on a full-time basis. Also, unless otherwise indicated, the totals on which all percentages in this fact sheet are based are the totals for "employed workers" — those actually employed — as opposed to the total "labor force," which includes those who are unemployed but looking for work.

² Belows, above n. 1, at Table 1, p. 867.

³ Ann Bookman, "Flexibility At What Price? The Costs of Part-Time Work for Women Workers," 52 WASH. & LEE L. REV. 799, 804 (1995) [hereinafter referred to as *Bookman*].

⁴ See, Report 900, above n. 1, p. 3.

⁵ Not included in this category or in this fact sheet are workers hired directly by an employer to fill a position for a finite period of time.

⁶ See, Bureau of Labor Statistics, U.S. Dept. of Labor, Table 13: Full- and Part-time Status of the Civilian Labor Force, by Age and Sex (unpublished data based on 1995 Current Population Survey) (February 1995) [hereinafter referred to as Table 13], and Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE6supp.: Employed Persons Other than Unpaid Family Workers, by Alternative Work Status, Full- and Part-Time Status, Sex, and Age (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995) [hereinafter referred to as Table AE6supp.]. Note: For purposes of determining the total proportion of contingent workers, the numbers of fulltime alternative workers reported in Table AE6supp. were divided by the appropriate totals reported in

⁷ Table 13, ibid.

"official."

8 Table 13 and Table AE6supp., above n. 6.

Table 13, as the latter totals are considered more

- ⁹ Table 13, above n. 6.
- 10 Table 13 and Table AE6supp., above n. 6.
- 11 Ibid.
- 12 Ibid.
- 13 Ibid.
- 14 Table 13, above n. 6.
- 15 Table 13 and Table AE6supp., above n. 6
- 16 Report 900, above n. 1, at Table 5.
- 17 Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE1: Employed Persons Other than Unpaid Family Workers, by Alternative Work Status, Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995).



18 Ibid.

19 AARP, Working Caregivers Report, March 1989: A National Survey of Caregivers, Table 1, p. 2 (1989).
20 Families and Work Institute, study conducted for the Older Women's League. Fax transmission of results from Robin Hardman, Families and Work Institute (Oct. 30, 1995) (available from Families and Work Institute, 212-465-2044). The Working Caregivers study cited above n. 19, at Table 4, p. 5, found that 14 percent of caregivers who were employed part-time said they had had to go from full-time to part-time work due to caregiving duties.

- ²¹ Table 13, above n. 6.
- ²² Ibid.
- ²³ Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE10: Persons in Alternative Work Arrangements by Type of Arrangement, Preference for Non-Alternative Arrangements, Job Search, Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995) [hereinafter referred to as Table AE10].
- ²⁴ Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE11: Persons in Alternative Work Arrangements by Type of Arrangement, Reason for Alternative Employment, Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995).
- 25 Table AE10, above n. 23.
- 26 Employee Benefit Research Institute,
 Characteristics of the Part-Time Work Force: Analysis of the March 1993 Current Population Survey, Table 4,
 p. 19 (Special Report and Issue Brief No. 149, SR-22) (May 1994) [hereinafter referred to as EBRI].
 27 Bureau of Labor Statistics, U.S. Dept. of Labor,
 Table AE13: Usual Weekly Earnings of Wage and
 Salary Workers, by Alternative Work Status, Health

Insurance Coverage, and Sex, Age, Race, Hispanic Origin, and Full- and Part-time Status (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995).

- ²⁸ *Ibid.*, at p. 15.
- ²⁹ *Ibid.*, at p. 25.
- 30 *Ibid.*, at pp. 5, 14, 23.
- 31 Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE7: Employed Persons Other than Unpaid Family Workers, by Alternative Work Status, Health Insurance Coverage, and Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995) [hereinafter referred to as Table AE7].
- 32 EBRI, above n. 26, at Table 20, p. 56.
- 33 Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE8: Wage and Salary Workers Without Employer Provided Insurance, by Availability and Reason for Not Having Insurance, Alternative Work Status, Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995).
- 34 Table AE7, above n. 31, at p. 4.
- 35 EBRI, above n. 26, at Table 20, p. 56.
- 36 *Ibid.*, at Table 29, p. 66.
- 37 Bureau of Labor Statistics, U.S. Dept. of Labor, Table AE9: Wage and Salary Workers, by Pension Coverage, Alternative Work Status, Sex, Age, Race, and Hispanic Origin (unpublished data based on a special supplement to the 1995 Current Population Survey) (February 1995) [hereinafter referred to as Table AE9].
- 38 EBRI, above n. 26, Table 29, at p. 66.
- ³⁹ *Table AE9*, above n. 37, at p. 6.
- 40 See, EBRI, above n. 26, Table 29 at p. 66 and Table 30 at p. 67. See also, U.S. Dept. of Labor, et al., Pension and Health Benefits of American Workers: New Findings from the April 1993 Current Population

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Survey (employee benefits supplement to April 1993 CPS), Table B4, p. B-5 (1994), which found that, among women working part-time in the private sector for firms that offered pension plans, 70 percent were not covered because their type of job was not eligible or they did not work enough to meet minimum requirements. (This report contains more recent data than the EBRI report but they are not broken down by age.)

The Employee Retirement Income Security Act (ERISA) mandates that, when employers provide pensions, coverage be extended to all employees who have worked at least 1,000 hours per year and have worked with the employer for at least one year. 29 U.S.C. § 1052(a)(1)(A)(ii) (Supp. 1995), § 1052(a)(3) (1985). Many part-time and on-call workers do not meet these ERISA minimums. Independent contractors are not even considered employees. See, 29 U.S.C § 1002(6) (Supp. 1995); Nationwide Mutual Ins. Co. v. Darden, 503 U.S. 318, 112 S. Ct. 1344, 1348 (1992).

44 Table AE9, above n. 37, at pp. 5-6.

As Ninety-three percent of workers in household occupations are women: of these, 25 percent are in their 40s and 50s and 16 percent are 60 or older. Number of Workers Whose Longest Job in 1993 Was in Household Occupations, by Sex and Age (unpublished table based on data from the 1993 Current Population Survey, obtained from Social Security Administration). Homecare aides (who are 93 percent women) are more than three times as likely as either hospital or nursing home aides to be 55 or older; they are also the group most likely to be contingent with few fringe benefits. William Crown, "A National Profile of Homecare, Nursing Home, and Hospital Aides," Generations 29, Table 1, p. 30 (Fall 1994).

See, generally, Bookman, above n. 3, at
pp. 809-11; Mary O'Connell, "Contingent Lives:
The Economic Insecurity of Contingent Workers,"
WASH. & LEE L. REV. 889, 894-96 (1995);
Virginia duRivage, New Policies for the Part-Time and Contingent Workforce (1992).

⁴² Table AE9, above n. 37, at p. 6.

⁴³ EBRI, above n. 26, at Table 29, p. 66.

Information researched and compiled by Diane Dodson. Edited by Deborah Chalfie.



The mission of AARP's Women's Initiative is to ensure that the economic, social, health, and long-term care needs of midlife and older women are met. The Initiative advocates and supports policies, programs, and legislation that improve the status of women today and in the future.

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