

2024 Spring Policy Forum

May 16, 2024

Agenda

10:00 a.m. — **Welcome**

10:15 a.m. — **Helping to Narrow the Nation's Lingering Racial Wealth Gap**

10:45 a.m. — **What ERISA Was Meant to Do: A Historical Perspective**

11:30 a.m. — **The History of Auto-Enrollment**

11:45 a.m. — **The Impact of Auto Features in DC Plans on Retirement Security**

11:55 a.m. — **Multistakeholder View on Benefits of Auto-Enrollment: What Else Could Be Automated Going Forward?**

12:40 p.m. — **Luncheon Address: ERISA and Health Benefits Innovation**

1:35 p.m. — **Pop-Up Talk on Paid Leave**

1:50 p.m. — **Benefits of ERISA Preemption for Employer-Provided Health Plans**

3:00 p.m. — **Pop-Up Talks**

2:00 p.m. — **Fireside Chat**

2:20 p.m. — **Livestream Ends & Break**

2:35 p.m. — **Health ERISA Preemption Panel**

3:15 p.m. — **Retirement Policy Discussion With Hill Staff**

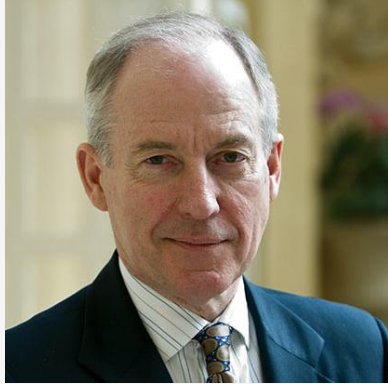
3:15 p.m. — **Closing Remarks**

Helping to Narrow the Nation's Lingering Racial Wealth Gap



Robert L. Johnson,
co-founder of BET,
entrepreneur,
media magnate,
executive,
philanthropist and
investor

What ERISA Was Meant to Do: A Historical Perspective



Dallas Salisbury,
former President
and CEO,
Employee Benefit
Research Institute



**Hon. Phyllis C.
Borzi,** Former
Assistant Secretary,
U.S. Department of
Labor



Howard Fluhr,
Chair Emeritus, The
Segal Group



**Moderated by: Jim
Klein,** President,
American Benefits
Council

The History of Auto-Enrollment



Mark Iwry,
Nonresident Senior
Fellow — Economic
Studies, Urban-
Brookings Tax Policy
Center

The Impact of Auto Features in DC Plans on Retirement Security



Craig Copeland,
Director of Wealth
Benefits Research,
Employee Benefit
Research Institute



EBRI/ABC Policy Forum

May 16, 2024

Auto Features and Their Impact on Retirement Security

Presentation Overview

- Retirement Security Projection Model (RSPM[®])
 - Description of the model
 - Output metrics
- Auto-Enrollment and Default Rates
- Auto-Escalation
- Auto Portability
- All Auto Features

Retirement Security Projection Model (RSPM®) — Introduction

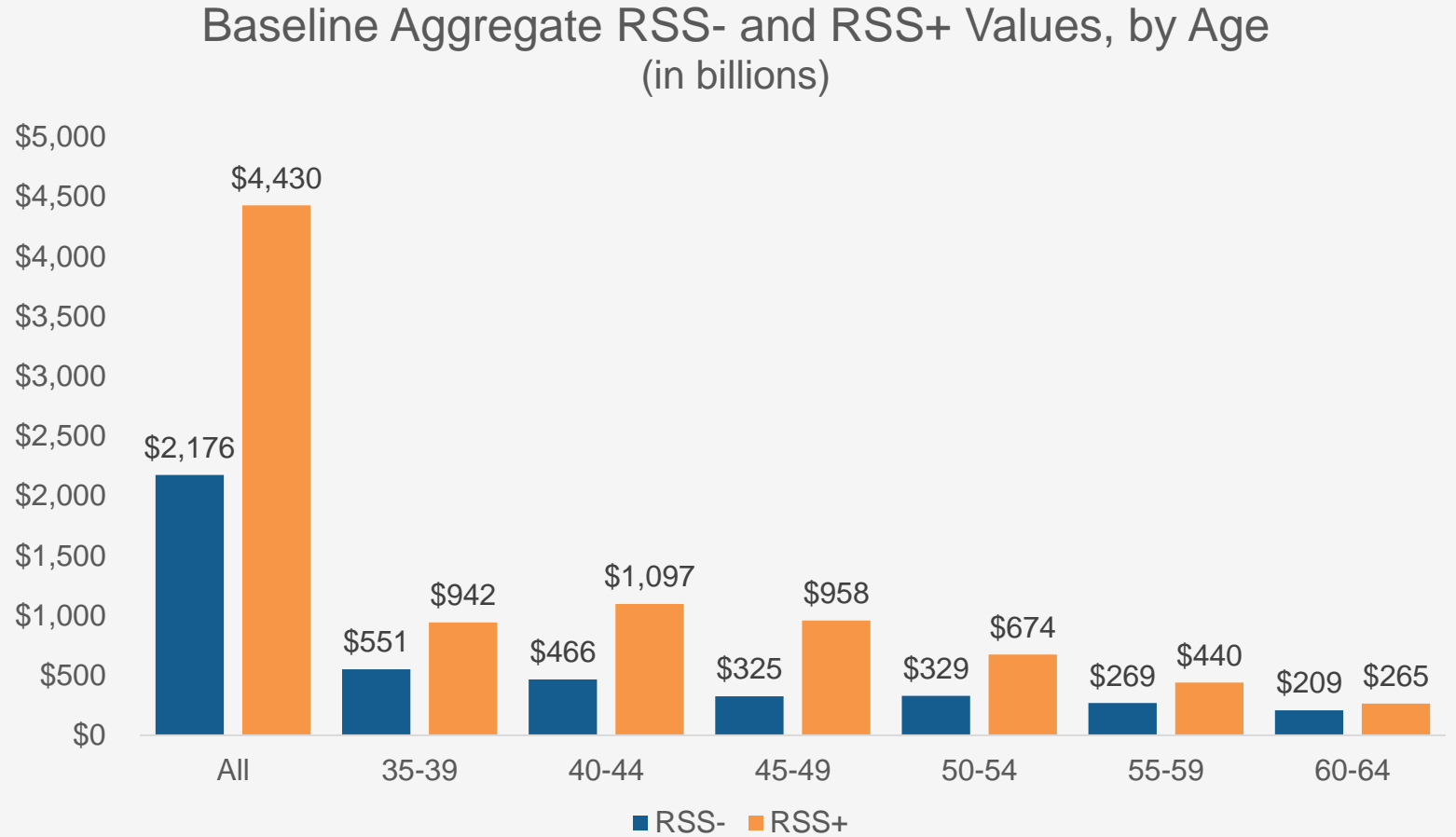
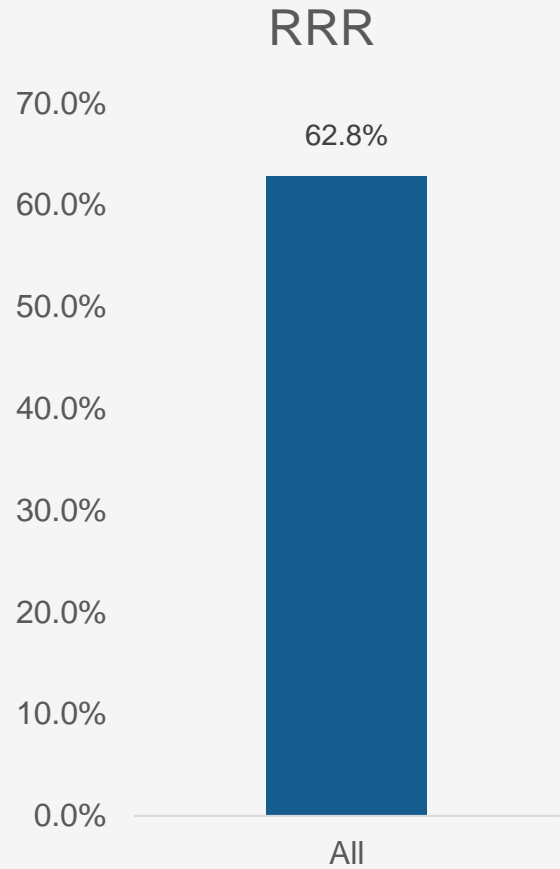
- Uses all retirement plan income/assets (including current law Social Security benefits) plus home equity to compare against average deterministic costs (housing, food, etc.) in retirement plus stochastic long-term health care costs to see if each individual ages 35–64 has sufficient income to cover these simulated expenses throughout retirement.
- Baseline comparison does not include SECURE provisions or any auto features going forward, allowing for the impact of adding the various auto features to be shown. The baseline is of those individuals who were ever eligible for an employment-based defined contribution retirement plan.
- Auto features are added in turn to show the impact on retirement security of these provisions.

Retirement Security Projection Model (RSPM®) — Introduction (cont.)

- Output Metrics

- **Retirement Readiness Rating (RRR)** — share of individuals projected to not run short of money in retirement
- **Average/Aggregate Retirement Savings Shortfalls (RSS-)** — average or total amount of money by which individuals run short of covering the projected expenses in retirement
- **Average/Aggregate Retirement Savings Surpluses (RSS+)** — average or total amount of money above what is needed to cover all projected expenses in retirement

RSPM Baseline Metrics (Those Ever Eligible for a DC Plan)

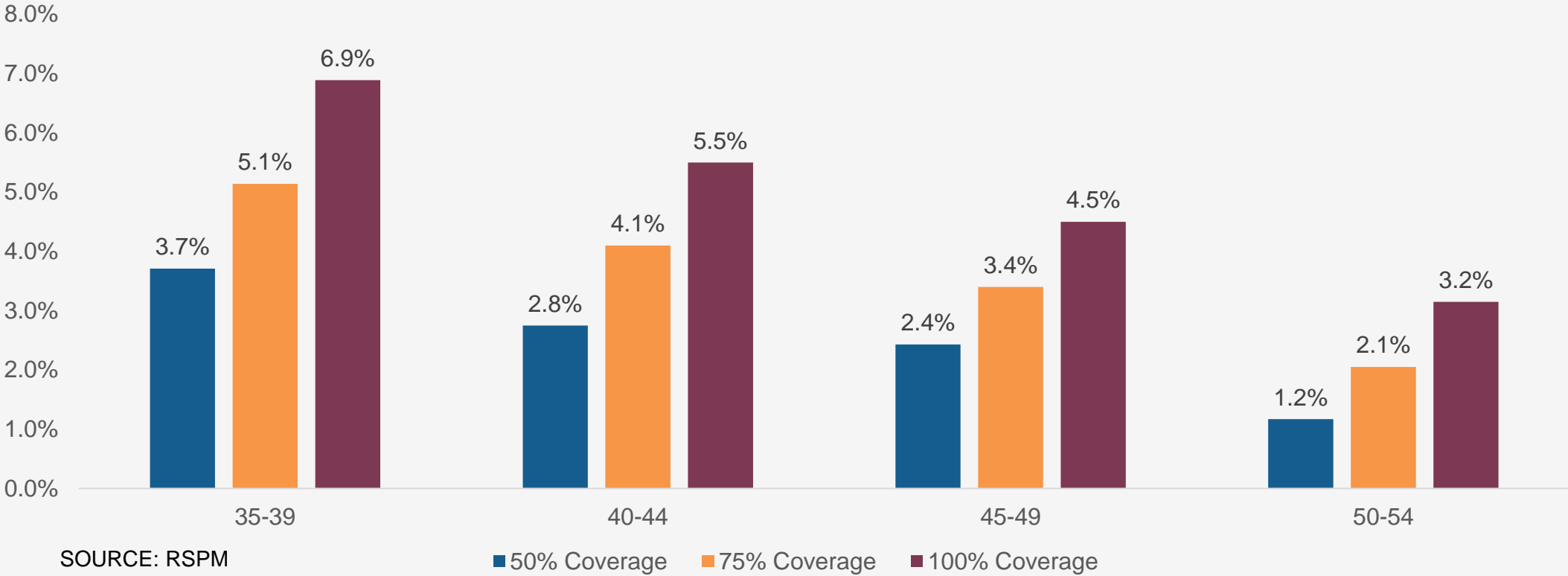


Source: RSPM

AUTO-ENROLLMENT AND DEFAULT RATE IMPACT

Auto-Enrollment Impact — 4 Percent Default Contribution Rate

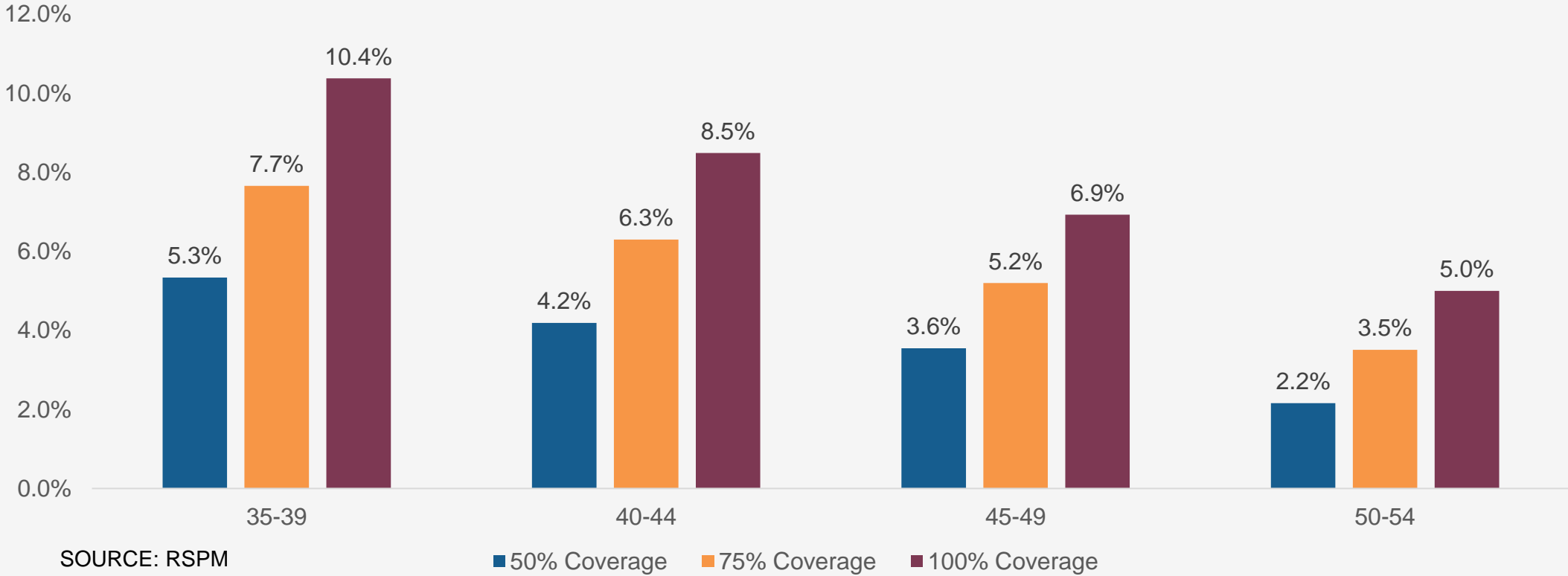
Decrease in the RSS-, by Age



Note: Auto-enrollment of new employees with a default contribution rate of 4 percent.

Auto-Enrollment Impact — 6 Percent Default Contribution Rate

Decrease in the RSS-, by Age

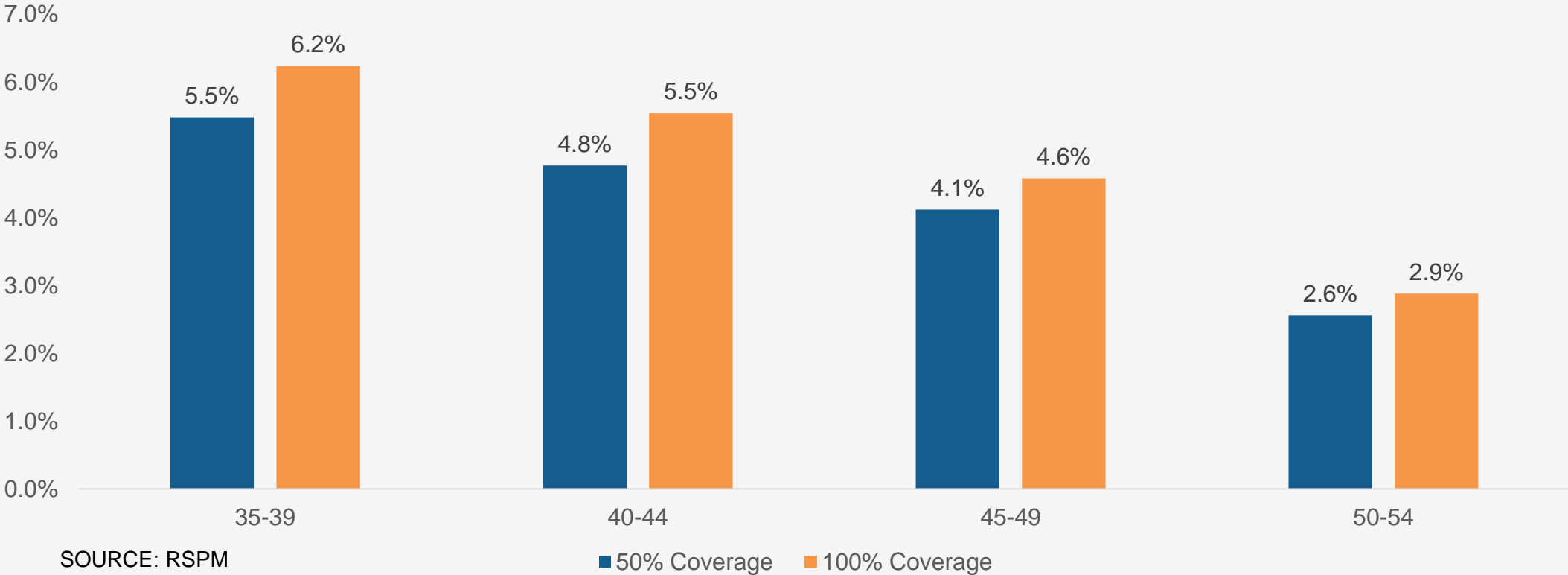


Note: Auto-enrollment of new employees with a default contribution rate of 6 percent.

AUTO-ESCALATION

Auto-Escalation Impact

Decrease in the RSS-, by Age

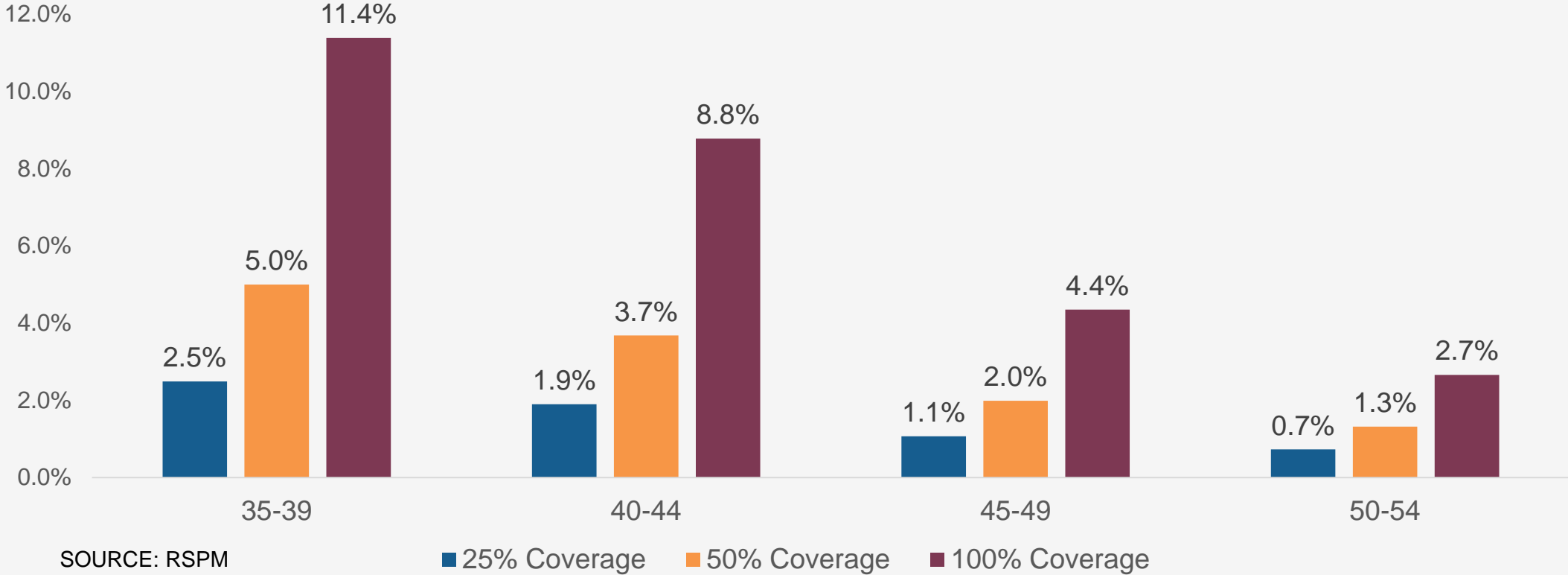


Note: Fifty percent of new workers were covered by auto-enrollment. The default contribution rate of the auto-enrollment plans is 6 percent. Auto-escalation is to 12%.

AUTO PORTABILITY

Auto Portability Impact

Decrease in the RSS-, by Age

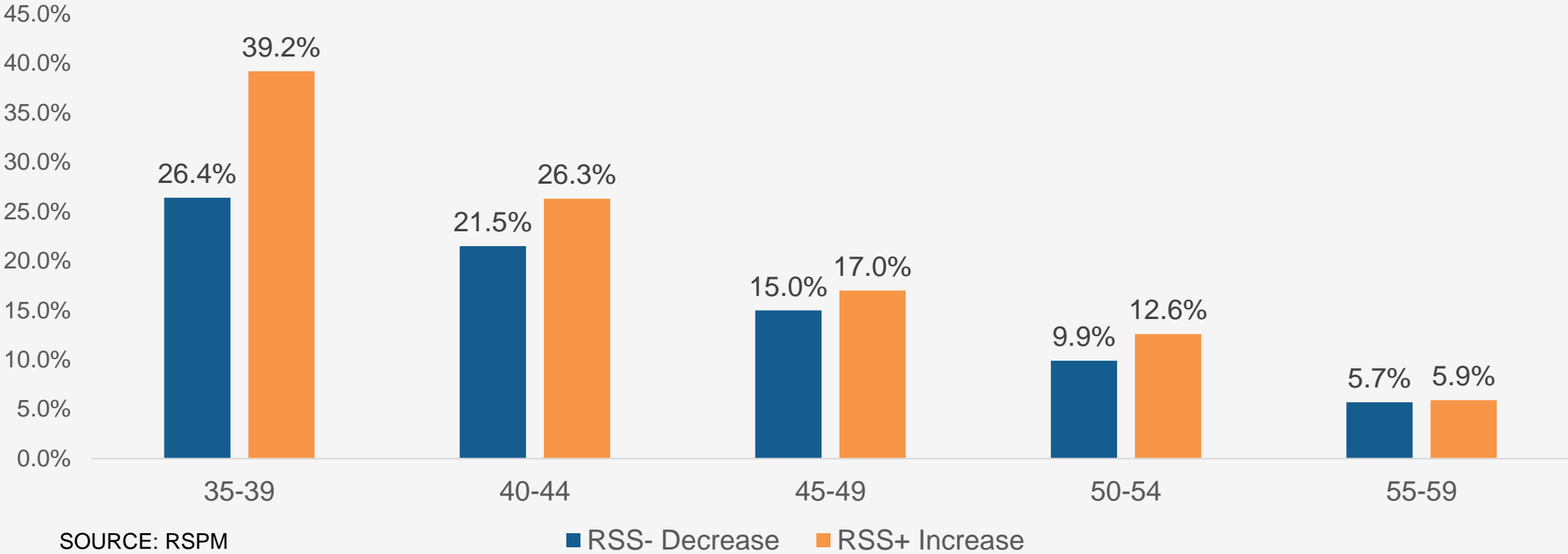


Note: Auto portability is limited to accounts with less than \$7,000. No other auto features were active.

ALL AUTO FEATURES EMPLOYED

All Auto Features Impact

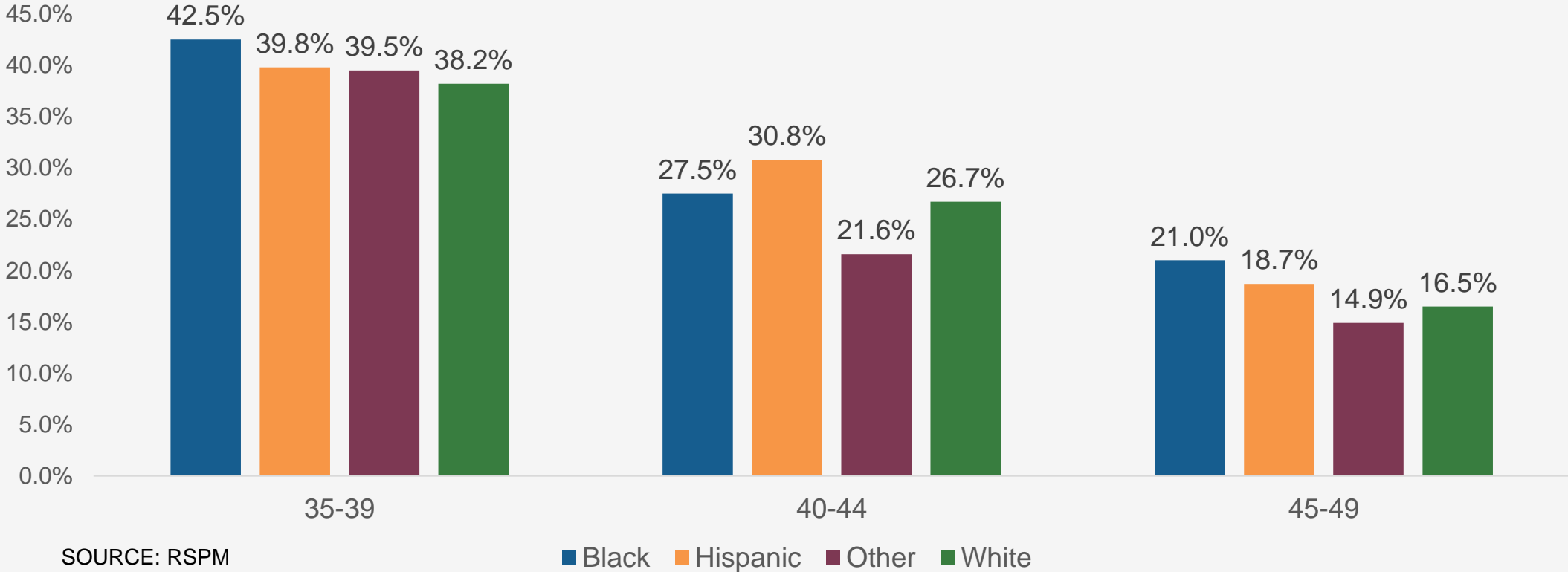
Decrease in the RSS-/Increase in the RSS+, by Age



Note: Auto portability is limited to accounts with less than \$7,000 with 100 percent coverage.
Auto-enrollment default contribution rate is 6 percent with 100 percent coverage, and auto-escalation is to 12 percent.

All Auto Features Impact

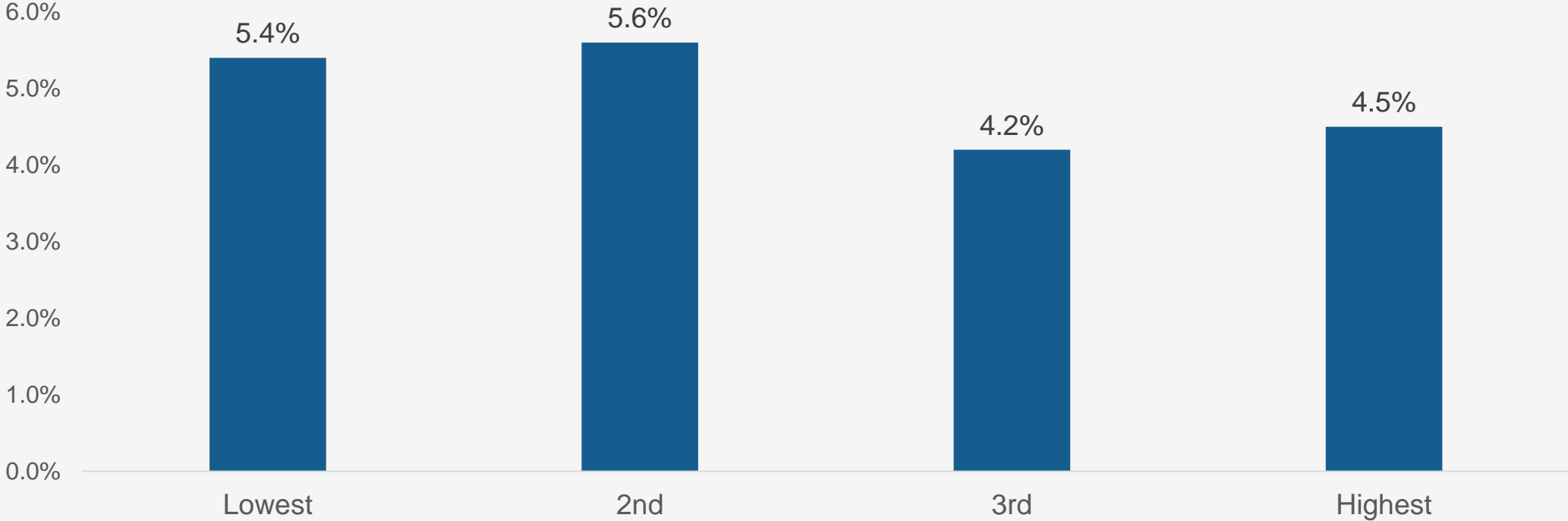
Increase in the RSS+, by Race/Ethnicity and Age



Note: Auto portability is limited to accounts with less than \$7,000 with 100 percent coverage.
Auto-enrollment default contribution rate is 6 percent with 100 percent coverage, and auto-escalation is to 12 percent.

All Auto Features Impact

Increase in the RRR, by Lifetime Income Quartile



SOURCE: RSPM

Note: Auto portability is limited to accounts with less than \$7,000 with 100 percent coverage. Auto-enrollment default contribution rate is 6 percent with 100 percent coverage, and auto-escalation is to 12 percent.

Takeaways

- Auto features have a real impact, and ERISA allows for the flexibility to adopt those as plan sponsors see fit.
- Auto features work best when all are used, as they help with starting to save, increasing saving, and preserving savings.
- These features also can improve the gap in retirement security between those of different races and ethnicities and income levels.

Multistakeholder View on Benefits of Auto-Enrollment: What Else Could Be Automated Going Forward?



Jason Jagatic,
Head of Global
and Workplace
Thought Leadership,
Fidelity Investments



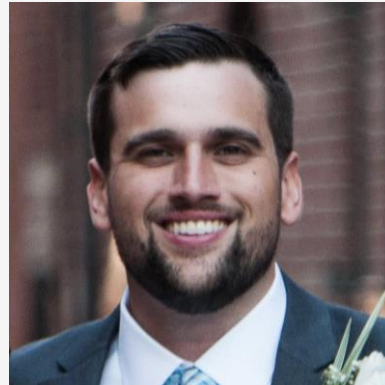
Sarah Faye Pierce,
Head of
Government
Relations, Paychex



**Moderated by:
Bridget Bearden,**
Research and
Development
Strategist,
Employee Benefit
Research Institute



Carole Mendoza,
Vice President of
Benefits, Voya



Ben Roberge,
Director, Financial
& Retirement
Programs, Unum



Networking Lunch

Please be back by 1:00 pm

EBRI EMPLOYEE BENEFIT
RESEARCH INSTITUTE



AMERICAN BENEFITS
COUNCIL

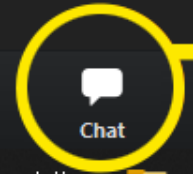
Enter Full Screen

Zoom Webinar Chat

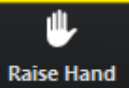
John Doe

Click this button

Type question(s) here



Chat



Raise Hand

Leave Meeting

To: All panelists
Your text can only be seen by panelists

26

Luncheon Address: ERISA and Health Benefits Innovation



Rob Andrews,
CEO, Health
Transformation
Alliance

Pop-Up Talk on Paid Leave



**Joshua D.
Seidman, Partner,
Labor and
Employment,
Seyfarth Shaw LLP**



Pop-Up Talk on Paid Leave

National Paid Sick and Family Leave Overview

May 16, 2024

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).

©2023 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

©2023 Seyfarth Shaw LLP. All rights reserved. Private and Confidential



Mandatory Paid Sick Leave (PSL) and PTO Laws

Total Mandates

As of May 1, 2024:

56 TOTAL PSL & PTO Mandates in the U.S.

- **Why?** Several jurisdictions have enacted multiple mandates.

Ex: General PSL Law + COVID-19 Temporary PSL Law

But number constantly changing due to COVID PSL laws + Sunset of Standard Laws.

As of Dec. 2020:
Approx. 69 TOTAL Mandates in U.S.

Federal

- **Executive Order 13706**

PSL for many EEs of certain federal contractors

- **Families First Coronavirus Response Act**

Emergency PSL for EEs of certain sized ERs (sunset as of 12/31/2020; reimbursement for voluntary leave option for select ERs ended 9/30/2021)

19 States + DC

PSL:

- Arizona
- **California**
- Colorado
- **Connecticut**
- DC
- Maryland
- Massachusetts
- Michigan
- **Minnesota**
- New Jersey
- New Mexico
- **New York**
- Oregon
- Rhode Island
- Vermont
- Virginia
- Washington

PTO:

- **Illinois**
- Maine
- Nevada

25 Municipalities

(1) San Francisco, CA; (2) Seattle, WA; (3) Long Beach, CA; (4) SeaTac, WA; (5) New York City, NY; (6) Los Angeles City, CA; (7) Oakland, CA; (8) Philadelphia, PA; (9) Tacoma, WA; (10) Emeryville, CA; (11) Montgomery County, MD; (12) Pittsburgh, PA; (13) Santa Monica, CA; (14) Minneapolis, MN; (15) San Diego, CA; (16) **Chicago, IL (PTO/PSL)**; (17) Berkeley, CA; (18) Saint Paul, MN; (19) **Cook County, IL (PTO)**; (20) Westchester County, NY; (21) Bernalillo County, NM (PTO); (22) Allegheny County, PA; (23) West Hollywood, CA (PTO); (24) Bloomington, MN; (25) Orland Park, IL (PTO)



Paid Family and Medical Leave

- **Existing Mandatory SDI Laws – 5 States:**
 - CA, HI, NJ, NY & RI
- **Existing Mandatory PFML Laws – 13 States + DC**
 - Paid Family Leave - **CA, NJ, NY & RI**
 - Paid Family and Medical Leave – **CO** (benefits began 1/1/2024), **CT, DC, DE** (benefits effective 2026), **MA, ME** (benefits effective 2026), **MD** (benefits effective 2026), **MN** (benefits effective 2026), **OR**, & **WA**



Paid Family and Medical Leave

A few new twists!

- **NH, VT** have instituted **Voluntary** PFML programs
 - NH (effective 1/1/2023)
 - VT (effective for state employees 7/1/2023; for other non-state government public employers 7/1/2024; for individual/private employer purchasers 7/1/2025)
- **AL, AR, FL, KY (enacted 4/5/2024), TN, TX, VA** added **Family Leave Insurance** as a class of insurance
- **Are these signs of the direction that PFML benefits will take in the coming years?**



Weaving the Patchwork: How Mandatory Paid Family Leave Laws Stitch Together

Private Plan Availability

All existing PFL laws other than DC and RI have a private plan option available to employers, **but** private plan approval criteria varies greatly.



Locations with Mandatory PFL Laws ⁰	Medical Leave (weeks) ¹	Family Leave (weeks) ^a	Military Exigency And/Or Military Caregiver Leave?	"Other" Leave? ⁹	Combined Leave (weeks)	Percent of Wages Paid ⁷	Non-Immediate Family Members Covered? ⁶
CA	52 ¹	8	Yes ⁵	None	52 ¹	60 - 70%	None
CO (eff. 1/1/2024)	12 or 16 ³	12	Yes ⁵	1 type	12 or 16 ³	90% then 50%	2 types
CT	12 or 14 ³	12	Yes	2 types	12 or 14 ³	95% then 60%	1 type
DC	12	12	No	1 type	12 or 14 ⁴	90% then 50%	None
DE (eff. 1/1/2026)	6 ²	6 or 12 ²	Yes ⁵	None	12	80%	None
ME (eff. 5/1/2026)	12	12	Yes	3 types	12	90% then 66%	2 types
MD (eff. 1/1/2026)	12	12	Yes	None	24	90% then 50%	None
MA	20	12	Yes	None	26	80% then 50%	None
MN (eff. 1/1/2026)	12	12	Yes	1 type	20	90% then 66% then 55%	3 types
NJ	26 ¹	12	No	2 types	38 ¹	85%	1 type
NY	26 ¹	12	Yes ⁵	1 type	26 ¹	67%	None
OR (eff. 9/3/2023)	12 or 14 ³	12	No	1 type	12 or 14 ³	100% then 50%	3 types
RI	30 ¹	6	No	None	30 ¹	4.62% ⁸	None
WA	12 or 14 ³	12	Yes ⁵	1 type	16 or 18 ³	90% then 50%	2 types

⁰ Effective date represents date benefits become available for all forms of leave

¹ Length of absence from statutory disability insurance (SDI) laws

² 6 weeks in 24-month period = employee or family member serious health condition; 12 weeks in 12-month period = bonding

³ Additional weeks possible if pregnancy complications

⁴ Additional weeks possible for prenatal care and bonding

⁵ Military Exigency Only

⁶ For this graphic, Immediate Family Members are: child, parent, in-laws, spouse, domestic partner, sibling, grandparent, grandchild

Non-Immediate Family Members Include: equivalent of family relationship by close association, individual who lives in employee's home, expectation of care, etc.

⁷ Amount of pay to Employee will depend on certain factors, such as their average weekly wage ("AWW"), the statewide AWW and the maximum weekly pay established by each program

⁸ Unlike other PFL laws, which typically measure amount of pay based on the employee's AWW, RI measures based on the employee's highest earning quarter in the base period

⁹ "Other" Leave can include, but is not limited to, Bereavement Leave, Safe Time, Bone Marrow or Organ Donation, Prenatal Care, Public Health Emergencies, or COVID related absences.

ⁿ For this graphic, Medical Leave refers to qualifying absences related to the employee's own serious health condition or disability, depending on applicable law

^a For this graphic, Family Leave refers to qualifying absences related to bonding or caring for a family member with a serious health condition

Amount of Medical Leaveⁿ
Less ← More

Amount of Family Leave^a
Less ← More

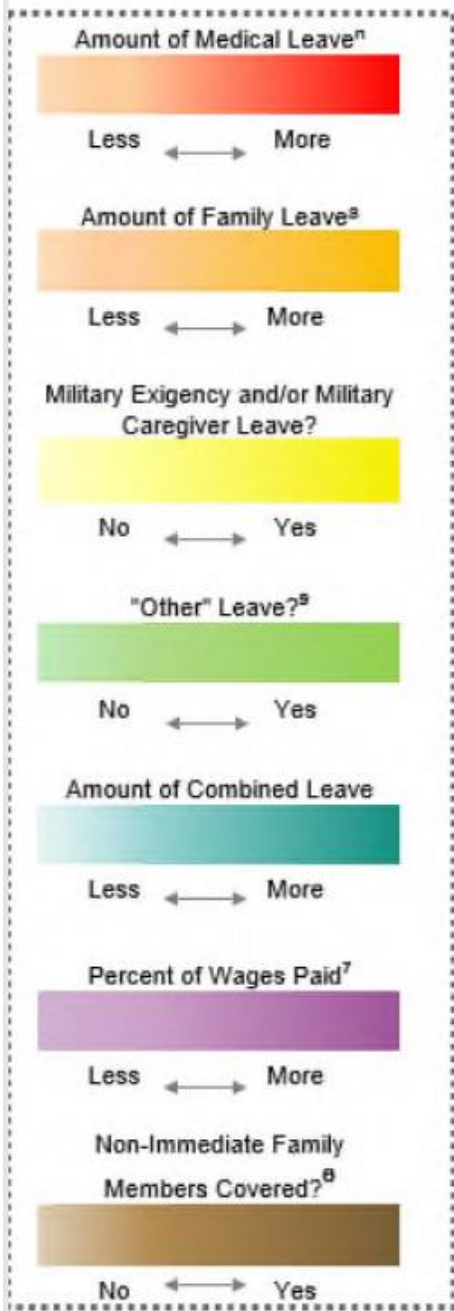
Military Exigency and/or Military Caregiver Leave?
No ← Yes

"Other" Leave?⁹
No ← Yes

Amount of Combined Leave
Less ← More

Percent of Wages Paid⁷
Less ← More

Non-Immediate Family Members Covered?⁶
No ← Yes



Locations with Mandatory PFL Laws ⁰	Medical Leave (weeks) ⁿ	Family Leave (weeks) ^a	Military Exigency And/Or Military Caregiver Leave?	"Other" Leave? ⁹	Combined Leave (weeks)	Percent of Wages Paid ⁷	Non-Immediate Family Members Covered? ⁶
CA	52 ¹	8	Yes ⁵	None	52 ¹	60 - 70%	None
CO (eff. 1/1/2024)	12 or 16 ³	12	Yes ⁵	1 type	12 or 16 ³	90% then 50%	2 types
CT	12 or 14 ³	12	Yes	2 types	12 or 14 ³	95% then 60%	1 type
DC	12	12	No	1 type	12 or 14 ⁴	90% then 50%	None
DE (eff. 1/1/2026)	6 ²	6 or 12 ²	Yes ⁵	None	12	80%	None
ME (eff. 5/1/2026)	12	12	Yes	3 types	12	90% then 66%	2 types
MD (eff. 1/1/2026)	12	12	Yes	None	24	90% then 50%	None
MA	20	12	Yes	None	26	80% then 50%	None
MN (eff. 1/1/2026)	12	12	Yes	1 type	20	90% then 66% then 55%	3 types
NJ	26 ¹	12	No	2 types	38 ¹	85%	1 type
NY	26 ¹	12	Yes ⁵	1 type	26 ¹	67%	None
OR (eff. 9/3/2023)	12 or 14 ³	12	No	1 type	12 or 14 ³	100% then 50%	3 types
RI	30 ¹	6	No	None	30 ¹	4.62% ⁸	None
WA	12 or 14 ³	12	Yes ⁵	1 type	16 or 18 ³	90% then 50%	2 types



Paid Sick Leave and PTO Outlook – 2024 and On

Laws scheduled to go into effect or that recently became effective:

- Chicago, IL (PTO / PSL Law – 12/31/2023, but really 7/1/2024)
- Illinois + Cook County + Orland Park (PTO laws – 12/2023 or 1/1/2024)
- Minnesota (General PSL + Select local amendments – 1/1/2024)

Next locations likely to adopt:

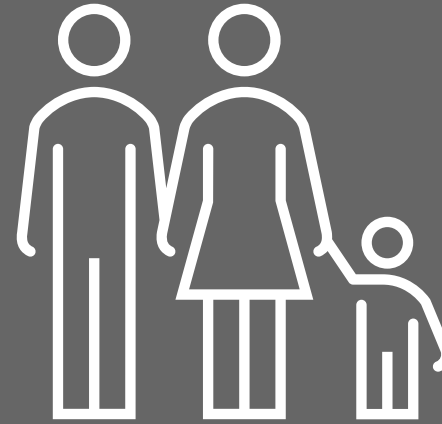
- **Federal:** Potential for nationwide PSL mandate. Key 2023 legislation – The Healthy Families Act (S.1664)
- **State:** **(1)** Delaware; **(2)** Nebraska; **(3)** Missouri; **(4)** Virginia (for all private ERs); **(5)** Hawaii; **(6)** Pennsylvania;
- **Municipal:** **(1)** New York City, NY (PTO law?); **(2)** CA localities with existing or prior COVID-19 PSL laws that may seek to adopt general non-COVID PSL laws

Recent PFML Activity and Potential Future Changes



- **Oregon PFML:** Program went “live” on 9/3/2023
- **Colorado PFML:** Program went “live” 1/1/2024
- **Other Enacted Laws with Expected 2024 Activity:** Delaware, Maine, Maryland, Minnesota (all “go live” in 2026; other activity in 2024-25)
- **Where Next (mandatory PFML)?** Michigan; Illinois; Vermont; New Mexico; Hawaii; Virginia
- **Federal PFML Activity and Prospects:**
 - 2023: House + Senate Bipartisan Working Groups
 - Jan 2024: Bicameral RFI + House Policy Framework
 - 2024 Outlook: I-PLAN

Questions?



**thank
you**

For more information please contact:

Joshua Seidman

Seyfarth Shaw

Email: jseidman@seyfarth.com

Phone: 212-218-4647

Benefits of ERISA Preemption for Employer-Provided Health Plans



Paul Fronstin,
Director of Health
Benefits Research,
Employee Benefit
Research Institute



Jake Spiegel,
Research Associate,
Employee Benefit
Research Institute



Benefits of ERISA Preemption for Employer-Provided Health Plans

Paul Fronstin and Jake Spiegel
Employee Benefit Research Institute

May 16th, 2024

Employer Roundtable Discussions

- To better understand how employers perceive ERISA preemption and the value it provides, EBRI and the American Benefits Council conducted a series of roundtable discussions
- Roundtables comprised of more than two dozen benefits executives at large companies
 - Wide-ranging industries; telecommunications, manufacturing, insurance, financial services, technology, and more
 - Each firm employed at least 25,000 workers
 - Over 500,000 lives covered
 - Over \$6 billion in employer spending on health benefits

A Consistent Menu

- Under ERISA preemption, there is a uniform landscape of regulations, rather than a patchwork of 50 different state-level regulations
 - “We have a strong desire for everyone to have equal benefits regardless of where they sit ... if we had to have different benefit offerings in each state, I don’t know what we’d do”
 - “The equity piece is a large conversation now that more people are virtual. If one worker lives in Colorado and one lives in New Jersey, and they get different benefits, that’s not equitable”
 - “We’ve removed a barrier to the mobility of talent, because they know their benefits are staying consistent”

Innovation

- ERISA preemption fosters innovation that would otherwise be stifled by different states requiring different coverages
 - “ERISA is the path to innovation ... if we had to be subject to varying state mandates, it’d be a nonstarter”
 - “Going to a 50-state [patchwork] solution is the opposite of innovative”
 - “A lot of innovation comes from point solutions helping employees live healthier, better lives”

High Quality, Relatively Low Cost

- ERISA preemption reduces costs, enabling employers to deliver richer benefits and lower costs to their workers
 - “ERISA is the framework that allows all of this to happen in a cost-efficient manner that benefits all”
 - “I’d have to double my staff, or hire more consultants to manage the complexities ... it’s like turning a single benefit plan into 50 benefit plans”
 - “If you can’t use the same provider [in each state] on the PBM side, the costs go up. That’s the whole point of just being able to go to [a single vendor], we can control our costs better ... when you lose that control by having to go with a number of different providers, it’s going to end up costing more”

Fireside Chat



Doug Holtz-Eakin,
President,
American Action
Forum



Moderated by:
Paul Fronstin,
Director of Health
Benefits Research,
Employee Benefit
Research Institute



Refreshment Break

Please return by 3:00 p.m.

EBRI EMPLOYEE BENEFIT
RESEARCH INSTITUTE

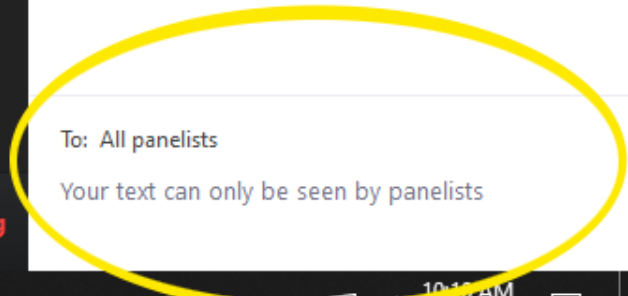
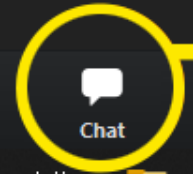


AMERICAN BENEFITS
COUNCIL

John Doe

Click this button

Type question(s) here



Health ERISA Preemption Panel



Peter Baxter,
Senior Vice
President, Insurance
& Financial
Services, NRECA



CJ Mahler,
Professional Staff
Member at House
Committee on
Education and the
Workforce



Lori Alagha,
Associate Director,
Human Resources,
Procter & Gamble



**Moderated by:
Ilyse Schuman,**
Senior Vice
President, Health &
Paid Leave Policy,
American Benefits
Council

Retirement Policy Discussion With Hill Staff



Michael Sinacore,
Pensions Policy
Director, U.S.
Senate Committee
on Health,
Education, Labor, &
Pensions

Kevin McDermott,
Labor Policy
Director, Committee
on Education & the
Workforce, U.S.
House of
Representatives



Jeanne Wilson,
Retirement Counsel,
Committee on
Education & the
Workforce, U.S.
House of
Representatives



**Moderated by: Lynn
Dudley,** Senior Vice
President, Global
Retirement &
Compensation Policy,
American Benefits Council

Provide Us With Your Feedback!



https://ebri.qualtrics.com/jfe/form/SV_4UekrvD6uzRDNe6

2024 Spring Policy Forum

May 16, 2024