

Prepaid Legal Services Plans

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Prepaid legal services plans can be an important benefit that enhances quality of life in the workplace. Many such plans are fringe benefit funds to which signatory employers make contributions via collective bargaining agreements. Prepaid legal services plans covered under the Employee Retirement Income Security Act of 1974 (ERISA) are considered employee welfare benefits plans and must comply with Department of Labor (DOL) regulations. The plans offer legal services from criminal matters to traffic tickets, from domestic relations matters to consumer matters. This is one plan's story.

While health care, pensions and annuity benefits are primary benefits concerns, prepaid legal services plans can also be an important benefit. Such plans help avoid legal problems, as well as prepare for the unexpected legal problem that does arise. The plans can be lifesavers and can help preserve assets.

Prepaid legal plans are a cooperative opportunity for better work environments and the best end product or service. Prepaid legal plans promote positive employer/employee relations. Everyone benefits. Employers, employees, unions, trustees, management, administration, providers and their customers, and even DOL have the best opportunity to meet their objectives.

A Case Study

The Laborers' District Council (LDC) Prepaid Legal Plan is a fringe benefit fund to which signatory employers make contributions via collective bargaining agreements. The fund is designed to better the quality of life for its union participants and their families by offering important legal services. The fund offers legal representation for issues ranging from serious criminal matters to traffic tickets, to a full range of:

- Domestic relations matters (custody, support, divorce, adoption, etc.)

- Purchase and sale of homes
- Drafting or reviewing wills or other documents
- Defense in lawsuits such as mortgage foreclosures
- Credit and other consumer matters
- Filing of lawsuits against a third party for breach of contract, etc.

Starting in 1983, the LDC Prepaid Legal Plan was one of the earliest jointly trustee, union-management prepaid legal funds in Pennsylvania. Because employment in the construction industry can be less than year-round, and the entire industry can experience wide fluctuations depending on economic conditions, the LDC Plan had to be carefully structured to provide maximum benefits to participants, while carefully protecting and utilizing their plan's assets.

Prepaid legal plans depend on legal service providers in large part. To provide the best service for participants, a closed panel was chosen by the trustees. Each of the district's constituent local unions recommended one or more attorneys to act as the service provider for its union members. Each cooperating attorney signed an agreement with the LDC Prepaid Legal Plan, terminable at will and requiring, among other things, that the attorney carry substantial professional liability insurance.

The trustees carefully considered the

categories of legal services that could be provided and designated a dollar limit or cap for each category. For 20 years, based on actual experience, hourly rates have been increased and caps have likewise been carefully increased.

To provide maximum benefits with due regard to the seasonal variations in some of the work, the trustees adopted semiannual eligibility periods. If a participant works at least 300 hours for a contributing employer during the six-month period from November through April, the participant is eligible for service under the plan for May through October. Accumulating 300 hours of work from May through October makes the participant eligible for services from November through April. If a matter is opened for a participant during the eligibility period, the matter is covered even if the participant later becomes ineligible because of lack of work.

The LDC Prepaid Legal Plan has enjoyed a continuous, smooth-running history of over 20 years, due largely to the following factors:

- Careful, attentive, prudent and fair oversight by dedicated trustees, administrators and benefits specialists, with limited turnover
- A continuously, smoothly run main office with minimal turnover in staff
- Proactive management updating

computer programs for efficiently tracking eligibility, hours utilized, billing and, most importantly, service to participants

- Consistent sensitivity to the comments, complaints and suggestions of both cooperating attorneys and participants
- Confidential relationships between the attorneys and the participants.

The availability of competent services has helped to level the playing field for participants in the legal arena, which so often is stacked against the working person who either can't afford a lawyer, doesn't know a lawyer or doesn't realize the need for a lawyer.

The lawyers can't win every case. Many times they have to explain the difficulties of a client's case or the risks involved in pursuing or defending the case. But by and large, helping working families with their legal difficulties is a very gratifying experience and a unique "boutique" aspect of the practice of law.

DOL Regulations Affecting Prepaid Legal Services

Congress granted the secretary of labor the authority to prescribe regulations deemed "necessary or appropriate" to interpret and enforce the provisions of ERISA. DOL regulations are designed to provide greater clarity to the ERISA statute.

In order to determine whether a prepaid legal services plan is regulated under ERISA, it is important to review the DOL regulations that define a *prepaid legal services plan*.

Prepaid legal services plans should comply with DOL regulations on:

- Reporting and disclosure
- Document contents and method of distribution
- Recordkeeping requirements
- Bonding requirements
- Investment duties
- Other fiduciary responsibilities.

It is wise to consult with the plan's counsel regarding compliance issues. DOL has the authority to assess penalties against a plan for noncompliance.

DOL regulations are easily accessible and are routinely updated on the Web site at www.dol.gov.

Conclusion

As prepaid legal fund provider Willie Lee Nattiel, Esq., says, "The need for legal services is a fact of life." Prepaid legal services plans meet this need. The

Laborers' District Council Prepaid Legal Plan looks forward to continuing to provide quality legal service benefits to its members and their dependants, while complying with all DOL requirements. **B&C**



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