

Group Prepaid Legal Service Plan



Certificate of Legal Services Coverage

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Eligibility – Family Coverage

Group Prepaid Legal Service Plan legal representation is available to Covered Individuals if:

1. The type of matter is covered under the Plan;
2. The legal representation is provided by the attorneys employed by the Plan; and
3. You are a Covered Individual entitled to the Plan and its benefits. A Covered Individual is a Participant or a Participant's Covered Dependent. You are a Participant if you work for an employer who, pursuant to the terms of a collective bargaining agreement or other written agreement, makes contributions on your behalf to the Group Prepaid Legal Service Plan (herein called the "Plan"), or if your local association or benefit fund has purchased the Plan from the NYSUT Member Benefits Trust.

If you are a Covered Dependent of a Participant, you are entitled to most plan benefits. A Covered Dependent is defined as the legal spouse of a Participant (not legally separated from a Participant) or a domestic partner* of a Participant and a Participant's unmarried children or the unmarried children of the Participant's domestic partner who are under the age of nineteen (19).

Dependent children of the Participant or the Participant's domestic partner to age twenty-five (25) who are full-time students can avail themselves of some of the services provided by the Prepaid Plan. A Covered Dependent must reside with the Participant in order to be eligible for Group Prepaid Legal Service Plan coverage, except as described below.

You and your Covered Dependents who are seeking representation must be New York, New Jersey or Connecticut residents. The Group Prepaid Legal Service program will make a good faith effort to assist members who reside outside New York, New Jersey or Connecticut; however, all the terms of

**To qualify as a domestic partner, both individuals must be at least eighteen (18) years old, unmarried and unrelated by blood in a manner that would bar their marriage in New York state, and uninvolved in any other domestic partnership or marriage.*

coverage cannot be guaranteed outside of New Jersey or Connecticut. Covered Dependents who do not reside with a Participant are entitled to telephone advice, legal letters, document review, and emergency hotline service only.

A Covered Individual's coverage ceases on the last day of the month in which contractual contributions are due to the Plan on behalf of the Participant or the last day of Participant's employment, whichever is sooner, provided that any legal representation in pending litigation or a pending real estate purchase or sale shall continue for six (6) months thereafter in the same manner as though coverage were in effect.

National Legal Office Hours and Telephone Numbers

The National Legal Office is Feldman, Kramer & Monaco, P.C., 330 Vanderbilt Motor Parkway, Hauppauge, NY 11788. The law office can be reached by telephone Monday through Friday from 9 a.m. to 5 p.m. (EST). The office is closed on Saturdays, Sundays and holidays. Telephone numbers for the National Legal Office are: 631-231-1450 (from area code 631) or 800-832-5182 (toll-free within New York state) or 800-292-8063 (toll-free nationwide). The legal plan emergency hotline number is 800-292-8063.

How to Use the Plan Most Effectively

1. All requests for Group Prepaid Legal Services in connection with each new legal matter must first be directed to the National Legal Office.
2. Call the National Legal Office before you sign any document or make any decision that may affect your conduct and have any legal consequences.
3. Always obtain a copy of anything you sign.
4. Always keep copies of contracts, bills, receipts, and other documents in a safe place so that they are available if you need them.

5. If you receive legal papers in the mail, call the National Legal Office immediately for advice and an appointment.
6. If you have any doubts about the advice given to you by someone who sought to gain some benefit from you, call the National Legal Office first -- before you enter into any commitment.
7. If you cannot keep your appointment with the Plan's attorney, please call the office to reschedule so that others may see the attorney at that time.
8. Before you leave your house to keep an appointment with the attorney, check to see if you have all the documents that the Plan attorney will need to help you. If you are unsure about which ones will be necessary, call and ask before you leave.
9. Have patience! The legal process sometimes moves slowly. Rest assured, although you may not receive results as quickly as you might desire, your attorney is doing all that is possible within the legal system and will keep you informed periodically of the status of the matter.

Confidentiality

An attorney must follow certain rules, which are called the "Code of Professional Responsibility." These rules require total dedication to the interest of the client, with zeal in maintenance and defense of the client's rights. Thus you have the advantage of dedication, determination and the full defense of your rights while at the same time only the attorneys and staff of the law office will know anything about your legal situation.

No matter what type of case you may have, your lawyer cannot serve your interest without having all the facts. To permit your lawyer to advise or represent you adequately, you should completely inform the attorney of all the aspects of your situation, unfavorable as well as favorable.

Your lawyer must see all the documents, papers, contracts, leases, or receipts and bills that you have in your possession. These documents will be taken care of by your lawyer and will not be misplaced or destroyed.

An Attorney's Professional Responsibility

The attorney's services shall be provided in accordance with the professional and ethical standards expected of attorneys. In providing such legal services, the attorneys shall adhere to the rules of the Plan as established herein, but shall receive no further instructions, direction or interference from any contributing employers or the trustees of the union or their officers or agents. Their obligations and relations as attorneys shall be exclusively with their clients. They shall maintain the confidentiality of the lawyer-client relationship in accordance with applicable canons of ethics.

They shall refuse to provide services in any matter they believe to be clearly without merit, repetitious or frivolous or in which representation would be unethical, improper or inadequate.

Legal Benefits

1. Advice, Consultation, Document Review, Letter Writing

This benefit permits you to consult with an attorney from the National Legal Office concerning any covered personal matter. This very important and valuable benefit allows you to get a legal "check-up" or review contracts, leases and applications that you are thinking of signing or any other legal documents. However, Plan attorneys cannot discuss business matters (matters relating to a business pursuit) with you under the Prepaid Plan terms. You do have the option of purchasing the Business Protection Rider by contacting the Administrator at 800-626-8101 should you wish to receive legal counsel on business matters (see page 24).

You should get legal advice whenever you run into serious problems concerning your financial

situation, your domestic affairs, your property, or your freedom. If you consult with an attorney before trouble arises, you can very frequently avoid further problems. This is what is known as preventive law. Just like preventive medicine, the object of the practice of preventive law is to avoid danger and harm. In addition, practicing preventive law may save you money. If you have a dispute with an individual or business, your attorneys will write letters in an attempt to resolve the problem.

Benefit Allowance

1. Telephone Advice and Consultation - full coverage*
2. Document Review - up to six (6) pages for each document - full coverage*
3. Office Consultations - six (6) one-half hour office consultations per year
4. Legal Letters - full coverage*

2. Purchase or Sale of Real Estate and Refinance

The attorney will represent you from contract through closing, concerning the purchase, sale or transfer of real property for personal primary residential use. This benefit covers the attorney's fee but not the other closing costs, such as the cost of title searches, title insurance, survey, and similarly-related closing costs, such as filing fees and documentary stamps.

Primary residential dwelling means a single family private home, condominium or cooperative in which the member resides or plans to reside, or the purchase of unimproved property with the intention of building a home in which the member expects to reside as his or her primary residence.

The benefit also covers representation in connection with refinancing programs of mortgages for such dwellings.

**Please Note: This benefit only applies to the National Legal Office. It does not apply to any participating referral attorneys.*

Benefit Allowance

1. Two (2) transactions (sale, purchase or refinance, or any combination thereof) are covered in a five (5)-year period.

2. If you decide to retain counsel outside the Legal Plan or there is a conflict, the Plan will pay up to the maximum of three hundred dollars (\$300) annually per transaction toward legal fees incurred regarding the sale, purchase or refinance of your primary residence. Reimbursement is limited to no more than two (2) transactions in a five (5)-year period. This benefit does not include bank attorney fees. The Legal Plan reserves the right to review documentation regarding the expenditure of fees with outside counsel. To receive the reimbursement, please contact the National Legal Office (see page 2). **Note:** There shall be a five-year limit to request reimbursement.

3. Traffic Matters and DWI – 24-Hour Hotline

This benefit includes consultation concerning any traffic violation and representation in court in all instances where, in connection with the operation of a motor vehicle, a traffic ticket has been issued, and, due to the accumulation of points or the severity of violation, a license must be revoked or suspended upon conviction. This includes allegations of driving while intoxicated. This benefit also covers your defense if you are charged with a traffic-related misdemeanor.

Representation in court under this benefit is available once in a twelve (12)-month period beginning the day that you first consult with the Plan's attorneys concerning a traffic-related matter. In the event of an emergency, call 800-292-8063 to reach the Group Prepaid Legal Service Plan emergency hotline. Representation of Covered Dependents is provided only with the consent of the Participant.

Benefit Allowance

Ten (10) hours of attorney time are covered.

Exceptions

This benefit does not cover:

1. Representation of those individuals who have

licenses such as the type of license that permits one to operate a taxicab, bus or truck.

2. Criminal defense of any felonies or charges unrelated to traffic matters.

3. Representation in connection with parking violations.

4. Family and Marital Relations – Contested and Uncontested

The Plan provides coverage only to Participants in all stages of both contested and uncontested actions for divorce, separation and annulment. This benefit also includes negotiation and preparation of separation agreements and property settlements. Moreover, the Plan covers actions and proceedings to enforce agreements and judgments that provide for alimony, child support, property rights, protective orders, custody, and visitation.

The Plan also covers representation of Participants in support, family offense, custody, and paternity proceedings in Family Court.

These benefits only cover representation of the Participant. Covered Dependents are not covered under these benefits.

Benefit Allowance

Up to fifty-five (55) hours of attorney time are covered, with twenty (20) hours being the maximum amount of attorney time for any single matter, regardless of the number of years it takes to conclude a matter. Divorce/Separation shall be considered a single matter.

5. Personal Injury

If you or a Covered Dependent are injured in a car accident, at a retail establishment, on the street, at a neighbor's house, bitten by a dog, or if you're injured in any other manner, you may be able to collect compensation for your injuries. Your Plan attorneys will represent you without any cost to you unless a recovery is made on your behalf. The

Plan attorney will then be entitled to twenty-five percent (25%) of the recovery as his or her fee, plus disbursements.

This fee represents a very substantial reduction from the usual and customary fee of thirty-three and one-third percent (33 1/3%) and can save you thousands of dollars.

Remember, whenever you are injured in any type of accident, call your Plan attorneys before speaking to anyone about the events that caused your injury.

6. Bankruptcy and Foreclosure

The Plan's attorneys will represent you in trying to avoid foreclosure on your house if you are unable to make your mortgage payments, or if another creditor is attempting to force the sale of your house to collect a judgment.

If the circumstances warrant bankruptcy, the Plan's attorneys will represent you in the wage earner or straight bankruptcy procedures under the Bankruptcy Act as well as assignments for the benefit of creditors under state laws.

Benefit Allowance

Twenty (20) hours of attorney time are covered.

7. Identity Theft

The National Legal Office will provide advice to Covered Individuals on the Federal laws governing identity theft and will offer Covered Individuals comprehensive advice on how best to avoid having their identity stolen.

Covered Individuals who are victims of identity theft will be offered comprehensive advice and guidance on how best to proceed to reclaim their identity. This advice will include how to file a police report, what credit agencies to contact to place a fraud alert, and guidance on how to construct an appropriate dispute letter to any creditor or agency involved. This benefit shall be limited to advice only, and in appropriate limited

circumstances may, in the professional discretion of the National Legal Office attorney, include the writing of up to three (3) letters per plan year.

8. Debt Consolidation

Where appropriate, the National Legal Office will assist a Covered Individual with debtor/creditor issues. Attorneys will advise Covered Individuals regarding their rights under the Federal Fair Debt Collector Practices Act, which governs collector practices. Attorneys will advise Covered Individuals on issues related to Chapter 7 and Chapter 13 bankruptcy alternatives.

Where appropriate, attorneys will review a Covered Individual's financial situation and relevant documents, and may contact the Covered Individual's creditor to discuss options available to suspend interest, work out a payment plan and avoid a collection lawsuit.

The above services may only be rendered prior to commencement of lawsuit by lender/creditor and shall not include representation in any matter in which a suit has been commenced.

The aforementioned legal assistance may require a Covered Individual to first provide the lender/creditor with written authorization as required by that lender/creditor.

9. Consumer Protection – Plaintiff and Defendant Coverage

The Plan's attorneys will represent you as a plaintiff or defendant in any meritorious civil action arising out of a consumer dispute, subject to the following exceptions and subject to those others listed later in this booklet. This benefit can include representation in court or at trial. In addition, the Plan attorneys will defend you regarding any civil suit where there is no insurance available, subject to the following limitations:

(a) No action or dispute concerning damage to persons or property arising from the ownership or operation of motor vehicles.

(b) No cases in which a contingent fee is customarily charged, such as when a lawyer would receive, as a fee, a percentage of your recovery.

(c) In plaintiff consumer actions, there is coverage for advice only if the consumer item is less than \$500; up to five (5) hours of attorney time for items costing \$501 to \$5,000; up to ten (10) hours of attorney time for items costing \$5,001 to \$10,000; up to fifteen (15) hours of attorney time for items costing \$10,001 to \$20,000; and up to twenty-five (25) hours for items costing more than \$20,000.

(d) No appeals of final judgments.

(e) No affirmative collection proceedings.

(f) Civil litigation defense coverage is limited to twenty (20) hours.

(g) The Plan's attorneys will only offer advice and consultation in connection with collection of a judgment after a judgment is obtained.

10. Defamation - Slander

The Plan's attorney will evaluate a situation wherein the Participant believes he or she has been defamed or slandered by a student, parent or community representative, including a Board of Education member. The Plan's attorneys' services will be limited to:

(a) Advice regarding the viability of litigation, and;

(b) Issuance of cease and desist letter to the offensive individual.

11. Wills and Estate Planning

The Plan's attorneys will consult with you and your spouse/domestic partner to determine how you want your money and property disposed of after your death and who you want to carry on your affairs and take care of your minor children. A Will shall then be drawn up to fit your needs. A Simple Testamentary Trust is included if appropriate in a particular case.

12. Living Will and Health Care Proxy

A Living Will enables you to express your wishes regarding end-of-life treatment options such as artificial hydration, tube feeding or other life-sustaining measures. A Health Care Proxy enables you to appoint an agent to carry out your wishes regarding medical treatment options. Additionally, a Health Care Proxy contains direction regarding organ donation. A Health Care Proxy eliminates the need for a court-appointed guardian for health issues should you become incapacitated. These documents will be prepared so that you can control your destiny and dignity.

13. Power of Attorney (POA)

A Power of Attorney enables you, as the grantor, to appoint an agent(s) to manage your financial affairs. It is effective immediately after signing regardless of your health. You can revoke the Power of Attorney at any time. This document gives the agent(s) full control over your assets and holdings. Possession of this document eliminates the need for a court-appointed guardian in the event of your subsequent incapacity.

Benefit Allowance: Forms to obtain your Simple Will, Living Will, Health Care Proxy, and Power of Attorney are contained in the Group Prepaid Legal Service Plan Legal Security Package. As a Group Prepaid Legal Service Plan participant, you are entitled to two (2) Legal Security Packages per Plan year.

Please Note: With respect to the Power of Attorney only, if a second POA is requested within the same Plan year, there will be a charge of \$75 for the second POA, payable to the National Legal Office. If you do not draft a POA in your first Plan year, you would be entitled to two (2) free POAs in your second subsequent Plan year, or, if your Group Plan provider has elected to enroll in the coverage with a two-year Participation Agreement commitment, you will be entitled to two (2) POAs in your first Plan year.

To obtain the Legal Security Package, print it from the Administrator's website at ***memberbenefits.nysut.org***; click on "Legal & Financial" in the menu at the top of the page. If you do not have Internet access, contact the Administrator at 800-626-8101 to have the package(s) sent to you.

14. Probate and Administration of Estates

The attorneys employed by the Plan will, in case of the death of a Covered Individual who leaves a Will, offer that Will for probate or in cases where no Will is left, petition on behalf of an heir for letters of administration. Representation will be provided through all phases of administration and the winding up of the estate, including accounting and distribution. This benefit does not include accountants' fees if their services are required.

Benefit Allowance

Attorneys' fees regarding probate are usually a percentage of estate assets. The Plan attorneys will reduce those fees by thirty-five percent (35%). The thirty-five percent (35%) reduction shall be computed against the following schedule of estate assets subject to probate in accordance with New York State Surrogate's Court Procedure Act (S.C.P.A.) Section 2307, for New York estates, or the usual and customary fee of the referral attorney(s), whichever is less.

The thirty-five percent (35%) discount shall be computed against the following schedule of assets:

- Five percent (5%) of the first \$100,000;
- Four percent (4%) of the next \$200,000;
- Three percent (3%) of the next \$700,000;
- Two and one-half percent (2.5%) of the next \$4 million;
- Two percent (2%) on all sums above \$5 million.

15. Adoption and Guardianship

The Plan's attorneys will represent you in all stages of uncontested adoption and uncontested guardianship proceedings. This benefit also extends to the adoption of the children of your spouse/domestic partner if he or she has children from a prior marriage or your spouse's/domestic partner's adoption of your children.

This benefit does not include the payment of any fees or expenses to adoption agencies or any other agencies, but does cover services normally rendered by an attorney to formalize an uncontested adoption or guardianship.

16. Change of Surname

This benefit is limited to once per Covered Individual. In all change of name petitions, the Plan's attorneys will fully represent you; however, the cost of publication of the notice and other disbursements are not covered.

17. Excess Coverage - Hourly Rate

If you exhaust any of the "Benefit Allowances" set forth in each benefit above, the Plan's attorneys will bill you at the reduced rate of:

- Two hundred and fifty dollars (\$250) per hour
- Two hundred and sixty-five dollars (\$265) per hour effective 9/1/2017

for all time necessary to conclude the matter. The Legal Plan will not pay for the excess time; however, the reduced hourly rate has been established for your additional savings.

Limitations on Coverage

All Participants should know that if the Plan's attorneys have represented your spouse in any other matter during which any of the Plan's attorneys have received significant information about your spouse's financial interests, that may cause a conflict of interest to exist.

Due to the number of situations that may arise in which it may be ethically improper for the same group of attorneys to represent a Participant against a spouse due to past representation in connection with other matters, limitations have been imposed, which are listed in this section of the Certificate. After reviewing these, if you have any questions, please call the National Legal Office.

Each element of coverage is subject to the specific Benefit Allowance listed herein; however, the maximum annual Benefit Allowance for all legal services rendered to a Covered Individual shall not exceed one hundred (100) hours under any circumstances. That maximum number of hours is cumulative and applies to all services rendered to the Participant and his or her Covered Dependents in any one calendar year.

There will be no Benefit Allowance for any legal action or proceeding in any court or administrative board or real estate closing outside of New York, New Jersey or Connecticut. However, special arrangements have been made for the availability of a referral service in some non-covered states.

Please note that these attorneys may charge you a fee; however, the fee has been reduced as a courtesy. Additional fees may be charged for court costs, trial, trial fees, process service, etc. A listing of the guaranteed maximum fee per service outside of New York, New Jersey or Connecticut follows:

For Services outside of NY, NJ or CT:

Legal Matter	Maximum Fee
Divorce (uncontested, without marital agreement)*	.....\$900
Divorce (uncontested, with marital agreement)*	.....\$1,700
Separation (uncontested)*	.....\$900
Real Estate (sale or purchase of primary residence only)	
Up to \$250,000	.....\$850
\$250,000 - \$500,000	.....\$1,025
More than \$500,000	.....\$1,325
Refinance of Mortgage (primary residence only)	.....\$425
Traffic Violation (first offense, 3 points or less – up to 2 court appearances)	.....\$700
Misdemeanor (first offense – up to 2 court appearances)	.....\$1,050
Personal Bankruptcy (Chapter 7)	.....\$1,425
Name Change (uncontested)	.....\$550
Driving While Intoxicated (first offense – up to 2 court appearances)	.....\$1,050

Commencement of Proceedings for Modification of Child Support (preparation of pleadings only)*	\$550
Office Consultation Re: Simple Will	\$110
Simple Promissory Note	\$40
Simple Trust	\$55
Simple Reciprocal Will with Simple Trust	\$110
Minor's Testamentary Trust	\$55
Power of Attorney (POA)**	\$75
Legal Security Package without POA	\$50
Legal Security Package with POA	\$100

**These benefits only cover representation of the Participant. A Participant's spouse or domestic partner is not covered under these benefits.*

***See page 11 for more details.*

The Plan **does not** provide services in any areas not specifically provided under Plan Benefits (see pages 4-13) or in any of the situations or areas as follows:

1. Legal advice, consultation, document preparation, or representation in matters that require knowledge of the laws of any state other than New York, New Jersey or Connecticut.
2. Legal advice, consultation, document preparation, or representation in any matter arising from the ownership or operation of a business or other matters in which, for income tax purposes, the cost of legal services would normally constitute a business expense or a capital investment or which are related to income-producing property. This excludes, but is not limited to excluding, patent and copyright matters and the purchase of multiple dwellings or property used for business purposes as business investments (See Optional Business Protection Rider on page 24).
3. Payment of any disbursements or expenses of any type such as: Marshal's or Sheriff's fees, investigation fees, handwriting analyst fees, the cost of blood grouping tests in paternity proceedings, the cost of photographs or expenditures for medical reports or accountants' fees, recording and filing fees, etc.

4. Payment of fines, penalties or civil damages in connection with any matter.
5. Except as otherwise specified in this Certificate, any matter in which a contingent fee is normally charged, such as when a lawyer would receive, as a fee, a percentage of your recovery.
6. Matters or proceedings in which legal services are available free or through insurance, including but not limited to the defense of automobile negligence cases or property liability cases.
7. Criminal matters other than covered traffic matters.
8. Any juvenile delinquency matters.
9. Plan letters that can be mailed in connection with negligence matters unless the firm is actually retained to prosecute the negligence case.
10. Unemployment insurance, disability insurance or workers' compensation insurance proceedings or any other employment-related matters, such as wrongful dismissal.
11. Class actions, interventions or "friend-of-court" situations.
12. Any action, matter or proceeding initiated prior to the institution of this Plan.
13. If there is a conflict of interest for the law firm or if both spouses/domestic partners are Participants of the Legal Plan or if it would be ethically improper to represent the Participant, separate arrangements will be made with the Board of Trustees of the NYSUT Member Benefits Trust or a designated sub-committee thereof for retention of outside counsel to represent the Participant. Contact the National Legal Office for instructions if this situation arises. If outside counsel is necessary, the Plan will be liable up to a maximum of three thousand dollars (\$3,000) per Participant for outside counsel fees.
14. Representation or advice in any dispute concerning eligible persons' rights to benefits under a collective bargaining agreement with any labor organization.

15. Tax matters or tax advice of any type.
16. Representation or advice in any judicial or administrative proceeding or dispute involving any of the following as an adverse party:
 - (a) a Participant or Covered Dependent of any Participant, except matrimonial proceedings against Covered Dependent spouses;
 - (b) any employer or its officers or agents or employees who are a party to a collective bargaining agreement with the local;
 - (c) the Plan or any employee or agent thereof;
 - (d) the trustees of the local or the NYSUT Member Benefits Trust or any other labor union or its officers, agents or employees, including but not limited to NYSUT;
 - (e) any organization affiliated with the NYSUT Member Benefits Trust or any organization with which the NYSUT Member Benefits Trust is affiliated;
 - (f) any other employee or labor organization or its officers or agents in any matter arising under the National Labor Relations Act as amended or the Taft-Hartley Act as amended;
 - (g) any health, welfare, pension, or other fringe benefit program or plan, or the trustees, administrators or employees thereof, in which the local or any other labor union participates or has an interest;
 - (h) in any proceeding in which the Plan would be prohibited from defraying the cost of legal services by the provisions of the Internal Revenue Code or Treasury Regulations promulgated thereunder or any other applicable laws or regulations.
17. All specialized areas of law, including but not limited to: patent, copyright, trademark, Securities Exchange Commission, admiralty, immigration, pensions, workers' compensation, etc.

18. The National Legal Office may decline to accept any matters for a Covered Individual that it determines is:

- (a) lacking sufficient merit to warrant pursuit;
- (b) a matter previously handled by retained legal counsel or where the individual has represented himself or herself;
- (c) raised to a Staff Attorney an inordinate or unreasonable number of times without substantial change of circumstances;
- (d) in conflict with any third-party interest or other client interest.

Miscellaneous Provisions

1. The services provided for herein are for the sole benefit of Covered Individuals. Such services shall not inure to the benefit of, nor vest in, any other person or entity, public or private, such as a trustee in bankruptcy under the National Bankruptcy Act, or to any assignee for the benefit of creditors or otherwise. Services provided under the Plan cannot be assigned and cannot be accumulated from year to year.

2. The Plan shall be subrogated to all rights of a Covered Individual to recover an attorney's fees and costs against any person or entity. Covered Individuals shall execute and deliver to the Plan any instruments or papers and do whatever else is necessary to secure such rights for the Plan; and they shall do nothing to prejudice such rights.

3. No Covered Individual is required or obligated to consult with or be represented by any attorney employed or retained by the Plan as a condition of union membership or otherwise, and such Covered Individual shall remain free to consult with or be represented by any other attorney concerning any matter at his or her own expense. Benefit allowances only apply to Plan attorneys except in the case of real estate transactions regarding a primary residence; see page 5 for details.

4. Certain statistical and other information concerning cases will be provided every six (6) months to the Plan Purchaser. Release and disclosure of such information are expressly agreed and consented to by the use of Plan benefits.

Optional Elder Law Rider

Your Group Prepaid Legal Service Plan may already include the optional Elder Law Rider. If not, you may choose to purchase this rider for fifty-five dollars (\$55) per year by contacting the Administrator at 800-626-8101. The Elder Law Rider may be added at any time by the Participant. However, there shall be no proration of the additional fee where the Elder Law Rider is purchased after your Group Prepaid Legal Service Plan year has started.

***Please Note:** The definition of Covered Dependents is expanded, only within the parameters of the Elder Law Rider, to include a Participant's parents, parents-in-law, grandparents, and grandparents-in-law.*

Introduction to Elder Law

The Elder Law Rider provides access to legal services in the specialized field of Elder Law. Elder Law lawyers can advise on State law and assist in putting a health and estate plan in effect, which can maximize eligibility for coverage of nursing home and home care costs while preserving one's estate and assets. Elder Law lawyers could also be of assistance if net worth exceeds \$1 million and you reside in New York state (check your state's estate tax exemption or call the National Legal Office for more details) or asset structure is unusually complex. The National Legal Office has contracted with this sector of the bar in anticipation of specific needs in this area of law.

The attorneys who will provide the listed services specialize in the subject of Elder Law and health law, estate planning, wills, trusts, pre-nursing home planning, probate, and conservatorship. They have distinguished themselves in the eyes of other attorneys and are known experts in the field of Elder Law.

Many states do not permit attorneys to state they are specialists in a particular legal subject because, in most states, there are not specific certification procedures. Contrary to the custom of the medical profession, attorneys usually are not designated as “Board Certified Specialists” by the State. In many states, it is therefore improper to advertise that one has a “specialty;” however, a national panel of highly respected attorneys who substantially limit their practice to Elder Law issues is available with this rider.

The Elder Law fee schedule is commensurate with the high level of experience these attorneys have. The National Legal Office will be pleased to discuss all issues concerning estate planning in an effort to determine if the services of one of the specialized firms is advisable for a particular case. In many cases, the involvement of a specialist may be unnecessary; however, the attorney from the National Legal Office will recommend the services of an Elder Law attorney when he or she believes it is advisable. Alternatively, one is free to ask for a referral.

Elder Law Attorney Fees

Through the Elder Law Rider, Elder Law attorneys’ usual fees are reduced by twenty percent (20%) by virtue of their contract with the National Legal Office. The fees set forth herein are general guidelines only. When you are referred to a specific firm, the National Legal Office will advise you regarding the specific firm’s discounted billing rate. *[Please Note: The benefits allowance and free office consultations described in the Group Prepaid Legal Service Plan Certificate of Legal Services Coverage do not apply to Elder Law benefits.]*

Elder Law Benefits

1. An Additional Legal Security Package

As an added benefit for those purchasing the optional Elder Law Rider, a Covered Individual is entitled to one, free, “limited” Legal Security Package per Plan year. The free documents within the Legal Security Package consist of a Simple Will, Health Care Proxy and Living Will. If you

would like to include a Power of Attorney to complete your Legal Security Package, there will be an additional charge of \$75.

To obtain the Legal Security Package, print it from the Administrator's website at ***memberbenefits.nysut.org***; click on "Legal & Financial" in the menu at the top of the page. If you do not have Internet access, contact the Administrator at 800-626-8101 and a Legal Security Package will be sent to you.

Participants may purchase additional Legal Security Packages for other Covered Dependents directly from the National Legal Office.

2. Elder Law Consultation

Average Fee with Discount \$400

An Elder Law consultation is the heart of the relationship with the client and the source of legal strategies. It can be used:

- (a) to ensure the client's health care and financial wishes are carried out;
- (b) to provide the best health care available, including, where appropriate, utilization of available government programs and resources (such as Medicare and Medicaid);
- (c) to assist in the coordination of other community-based resources, such as private geriatric care managers and nonprofit agencies that service the needs of senior citizens; and
- (d) to plan a strategy regarding estate and tax planning matters.

An Elder Law consultation generally includes the following:

- (a) Financial review and analysis, including review of all assets, real and personal; how the assets are held; examination of all sources of income in addition to income produced by assets, including pension benefits, Social Security benefits, payments from annuities,

and other instruments such as trusts, contracts of sale, mortgage notes, and other secured or non-secured obligations; and review of all life insurances held, including the face value and cash surrender values thereof.

- (b) Health Care insurance review, including an analysis of existing Medicare and Medicare Supplement benefits as well as long-term care insurance benefits.
- (c) Health Care analysis, including review of existing conditions, inquiry into competency, and review of discharge planning and available options, where appropriate.
- (d) Review of current documentation, including existing wills, trusts, powers of attorney, health care proxies, and health care declarations.
- (e) Summary of consultation and recommendations in letter format to client.

3. Complex Last Will and

Testament/Testamentary Trusts

Average Fee with Discount . . . \$1,750 to \$2,750

Complex Wills containing the following provisions commonly utilized in the Elder Law context are available as necessary:

- (a) **Federal Credit Shelter Trust:** To preserve the unified credit of each spouse while providing for the financial care of the surviving spouse.
- (b) **Special/Supplemental Needs Trust:** To provide for the supplemental care of the surviving spouse or children. This is offered to take advantage of the federal provisions under the Omnibus Budget Reconciliation Act (OBRA), which permits discretion in testamentary trusts (something that is clearly not available in lifetime trusts). This form of trust permits the trustees to utilize the trust funds in a manner that supplements for the care provided by existing governmental programs rather than substituting for such care.

4. Living Trusts

These lifetime trusts can be utilized for ordinary estate planning reasons (such as avoiding probate) to more complex trusts for health care planning.

- (a) **Revocable Living Trust or QTIP Trust**
Average Fee with
Discount \$2,500 to \$3,500

Revocable Living Trusts are utilized for ordinary estate planning purposes.

- (b) **Irrevocable Living Trusts**
Average Fee with Discount \$3,500

Utilized in health care planning, these trusts usually involve a stream of income to the Settlor of the trust or the Settlor's spouse with remainder to the children, or possibly to the trustees of a trust created under the Last Will & Testament of the Settlor.

- 5. Fair Hearing**
Average Fee with Discount \$3,500

In the event that a Medicaid application is rejected, one is entitled to a "Fair Hearing." This representation includes appearances at hearings as required; preparation of memorandum of law and/or brief, if necessary; affidavits; and meetings and correspondence.

- 6. Preparation of Application for**
Medical Assistance
Average Fee with Discount \$4,500 to \$6,000

Preparation, review or clarification of applications for Medical Assistance, and assistance with the filing of the application.

- 7. Deeds**
Average Fee with
Discount \$535 + recording fees

For estate planning purposes, it may be advisable for an Elder Law attorney to prepare a deed that retains a life estate and/or special Power of Appointment. These features are incorporated to avoid or reduce gift tax and capital gains tax as well as to protect assets from Medicaid.

8. Probate or Administration of Estate

When a Covered Individual is deceased, a probate or administration proceeding may be necessary. The fees charged vary a great deal from state to state; therefore, a twenty percent (20%) discount from the attorneys' standard billing amounts has been established.

9. Family Court Representation

Average Fee with Discount \$3,500

To recover spousal income or defend suit against Department of Social Services that may result from a Medicaid Lien.

10. Medicaid Appeal for Nursing Homes and Hospitals – Average Fee with Discount – 25% of amount recovered

11. Hourly Rate For All Other Matters

Range of Fees \$325 to \$400

Please Note: All additional correspondence, telephone communications, negotiations, and coordination with geriatric care managers or social workers are billed at hourly rates, appropriately discounted. In addition, disbursements made on behalf of the client, such as long-distance telephone charges, facsimiles, photocopies, overweight postage, etc., are billed to the client at cost. All exclusions and qualifications of the Group Prepaid Legal Service Plan apply to Elder Law benefits as well.

Optional Business Protection Rider

You may choose to purchase the optional Business Protection Rider for sixty dollars (\$60) per year by contacting the Administrator at 800-626-8101. The Business Protection Rider may be added at any time by the Participant. However, there shall be no proration of the additional fee where the Business Protection Rider is purchased after your Group Prepaid Legal Service Plan year has started.

Covered Individuals are entitled to the following benefits in relation to business or professional matters. Free document review (up to 6 pages), legal letters (limit 10) and telephone consultations

are included as described in the Legal Benefits section of this Certificate.

Please Note: Free office consultations do not apply to this Rider.

1. Collection Matters – Attorney’s services in relation to business collection matters shall be provided on a reduced sliding scale, applicable to debts evidenced by proper written documentation.

- (a) 25% of first \$300 recovered (\$25 minimum)
- (b) 23% of the next \$1,700 recovered
- (c) 18% of balance recovered

2. Attorney Services – Attorney services for most business matters are covered and shall be provided at the reduced rate as set forth in this Certificate of Coverage, see Legal Benefits, Item #13.

3. Maximum Fees – The following are subject not only to reduced hourly rates, but also to maximum fees for services rendered, regardless of time spent on the matter. All of the following rates exclude court costs and trial fees.

- (a) Incorporation – Preparation and filing of Certificate of Incorporation and preparation of initial corporate minutes
Maximum fee **\$385**
- (b) Preparation of Contract and Closing of Title regarding purchase or sale of business, excluding realty
Maximum fee:
Sale price up to \$60,000 **\$660**
Sale price above \$60,000 . . . **1% of sale price**
- (c) Preparation of Shareholders Agreement (3 Shareholders or less, excludes negotiation)
Maximum fee **\$745**
- (d) Preparation of Partnership Agreement (3 Partners or less, excludes negotiation)
Maximum fee **\$745**
- (e) Review and legal analysis of Covered Business employment contract with employees (excludes collective bargaining agreements)
Maximum fee **\$165**

- (f) Per diem trial – The reduced rate as set forth in this Certificate of Coverage, see Legal Benefits, Item #17 on page 13.

applies to an attorney's services in relation to court proceedings pertaining to business and/or professional matters.

4. Bankruptcy and Chapter 11 Matters – Attorneys will provide analysis and advice on the topic of Bankruptcy and Chapter 11 or other alternatives at the reduced rate as set forth in this certificate, see Legal Benefits, Item #17 on page 13.

5. Business Protection Rider Exclusions – The following types of matters are specifically excluded and no Covered Individual shall be entitled to receive any Plan benefits with regard thereto:

- (a) Fines, court costs, penalties, Expert Witness fees, disbursements, telephone, postage, photocopying, and other related expenses.
- (b) Any matter not governed by the law of the United States, the Domiciliary State of Covered Individual or a subdivision of said State.
- (c) Any legal service where the attorney is to be paid by contingent fee (except collection matters, which are specifically covered) or where the fee is provided by statute from any fund or where the Covered Individual's legal fees are paid or payable by a party other than the Covered Individual.
- (d) Any matter where the covered business has a right to defense or other legal representation through any policy of insurance or any other arrangement providing legal services to the Covered Individual.
- (e) Preparation, filing and advice in connection with tax returns and tax matters.
- (f) Any matter related to federal, state, county, or

municipal filings, mergers, acquisitions, consolidations, reorganizations, mining, water, purchase or sale of real property, tax matters, immigration, patent, trademark, copyright, Admiralty Law, Federal Employees' Liability Act, problems relating to the laws of international trade or of a foreign government, and corporate securities work subject to S.E.C. and certain state rules and regulations, pension and profit sharing.

Additional Information

The name, business address and telephone number of the Plan Administrator:

NYSUT Member Benefits Trust
800 Troy-Schenectady Road
Latham, NY 12110-2455
800-626-8101

Grievance and Arbitration

In the event that any controversy or complaint arises in connection with the terms and procedures contained in this Certificate involving the National Legal Office, Florida State Legal Office, Administrator, Contract Holder, Participating Referral Attorney, Covered Individual, or any combination thereof, the following procedure should be followed.

FIRST: Fully exhaust all possibilities of resolving the dispute with the other party or parties involved. When all such possibilities have been exhausted, Covered Individual may then;

SECOND: Notify the Grievance Department of the National Legal Office, c/o Feldman, Kramer & Monaco, P.C., 330 Vanderbilt Motor Parkway, Hauppauge, NY 11788, in writing, as to the nature of the dispute and all of the relevant particulars. In the event that the Grievance Department of the National Legal Office is unable to effectuate a satisfactory resolution, the Covered Individual may then;

THIRD: Appeal to the office of the Administrator for its help toward resolving the complaint or controversy by writing to the NYSUT Member Benefits Trust, 800 Troy-Schenectady Road, Latham, NY 12110-2455. In the event that the Administrator is unable to effectuate a satisfactory resolution, the Covered Individual may then;

FOURTH: Initiate the submission of the complaint or controversy to binding arbitration in accordance with the then current commercial arbitration rules of the American Arbitration Association. The arbitrator or arbitrators shall have the power to decide any dispute among the parties and individuals involved concerning the application or interpretation of the terms of this Certificate and the performance thereunder.

Said decisions shall be final and binding upon all parties, but said arbitrator or arbitrators shall have no power to change or add to the provisions of this Certificate. Each disputing party shall pay an equally proportionate share of the cost of arbitration, including the fees of the arbitrator (except attorney's fees and costs).

In the event that the National Legal Office shall be a party included in any such arbitration, the venue for such arbitration shall be the office of the American Arbitration Association that is nearest to the National Legal Office. In addition to the above mentioned grievance procedure, a Covered Individual has the option of presenting a dispute to a Bar Association or other lawyer disciplinary forum.

Statement of ERISA Rights

The Statement of ERISA Rights as set forth in Section 30.01 of Article 30 of the Summary Plan Description for the NYSUT Member Benefits Trust is hereby incorporated by reference.

Note

All the information and comments printed in this Certificate are for your information and guidance only. The Group Prepaid Legal Service Plan's benefits may be changed, amended or modified from time to time at the discretion of the trustees. Nothing contained in this Certificate may be used as a basis for any claim whatsoever against the trustees of the NYSUT Member Benefits Trust.

The Group Prepaid Legal Service Plan provided through Feldman, Kramer & Monaco, P.C. is a NYSUT Member Benefits Trust (Member Benefits)-endorsed program. Member Benefits has an endorsement arrangement of 15% of annual participation fees received for this program. All such payments to Member Benefits are used solely to defray the costs of administering its various programs and, where appropriate, to enhance them. Member Benefits acts as your advocate; please contact Member Benefits at 800-626-8101 if you experience a problem with any endorsed program.

