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How Firms Handle Prepaid Legal Plans

Clients' Queries Touch on Issues Basic to Bizarre

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The telephone at Herbert Kramer's bedside rang at 2:30 a.m. Groggily, the Hauppauge, N.Y., lawyer answered the call from a New York schoolteacher, who told him he had been stopped for speeding and was being held by the police-for murder. It seemed that someone with the same name was wanted for a homicide in Oregon. The teacher was about to be sent to one of New York City's most dangerous jails, where he would spend the night, waiting until his fingerprints could be checked by the Federal Bureau of Investigation. He was terrified.

Remembering he had signed up for a legal-services program offered by his union, the teacher had called the program's toll-free number for help. Mr. Kramer,

Shopping for Lawyers on TV

People buy jewelry and appliances from TV shopping shows. Will they find a lawyer the same way? A cable network and a law firm aim to find out, offering a legal services plan beginning in September. Story on page 22.

who mans the 24-hour hot line nights and weekends, says he immediately telephoned the precinct and talked the officer into letting his client stay at the police station instead. The prints were checked, the FBI reported that the teacher wasn't their man, and he was released the next day.

Prepaid programs that offer such assistance have proliferated in the past five years as unions have negotiated for legal services as part of their benefit packages, and as private companies have begun marketing plans to credit-card holders and other individuals. Some 14 million people now subscribe to prepaid legal programs, which typically offer referral help and a range of basic services—such as telephone consultations, will writing and document review—for annual fees that commonly run between \$100 and \$200 a year.

Filling a Niche

Not surprisingly, some big-firm attorneys criticize prepaid legal services programs, with their boilerplate documents and advertised low rates, for dispensing assembly-line work. But for people like the falsely accused teacher, who either can't afford a good lawyer or don't know where to find one on short notice, the prepaid legal industry can't be dismissed so lightly.

A closer look at Mr. Kramer's firm

shows how prepaid legal services are usually dispensed—and to whom. Nine-lawyer Feldman, Kramer & Roberts is the lead firm in New York state for Nationwide Legal Services Inc., a New York City-based company that has more lawyers under contract—about 6,000 nationally—than any other prepaid program. (The Chicago-based retailer Montgomery Ward & Co.; Hyatt Legal Services in Kansas City, Mo., and at least 20 other concerns offer programs as well.)

Feldman Kramer is also the lead firm for New York State United Teachers—the union offers members its own prepaid plan—and for a half dozen other similar programs. In all, partner Warren Feldman estimates, the plans the firm works with have 50,000 subscribers in New York state.

As a lead firm, Feldman Kramer fields all initial calls from subscribers. Generally, the problems are the stuff of every day life and don't require the kind of high-priced megalawyering practiced by corporate attorneys. That's a good thing, because on an average day two Feldman Kramer lawyers will each field 30 to 40 phone calls from prepaid subscribers. The average call lasts eight minutes.

Mr. Feldman, who keeps detailed records of how each matter is handled, says that about 80% of the problems are resolved by his firm at no extra charge to the client. The lawyer either answers the client's question over the phone or provides a free service, such as drafting a will or writing a letter on the client's behalf.

When more extensive work is required, as in a divorce proceeding or personal-injury claim, Feldman Kramer refers the client to a law firm in the client's city. That firm is also under contract to the prepaid program and has agreed to charge discounted rates—usually no higher than \$55 an hour—for its services.

A recent Thursday at Feldman Kramer is typical. There are consumer complaints, family problems, will-related questions and a dispute with a rental car company over insurance. A divorced woman calls to say she needs to change the name on a deed. A distraught mother wonders whether the high school attended by her son, who is failing senior English, has a legal right to keep him from graduating. By 2:30 p.m., 39 people have called.

Prepaid programs would appear to be a huge temptation for legal hypochondriacs who can find out at no charge—if there's a legal cure for whatever plagues them. Indeed, some subscribers call the firm as often as 20 times a year, frequently with bizarre problems that seem more psychological than legal.

One person called to find out if he could get married over the phone. Another tried to get out of a house closing by claiming that the broker had used hypnosis to induce her to sell. One Friday night, the hot line produced a call from a man who

A Typical Prepaid Legal Plan

The following plan is offered by New York State United Teachers, a statewide union, for an annual fee of \$49.50. (For-profit companies that offer similar plans generally charge between \$100 and \$200 a year.)

Services offered at no extra charge

- Unlimited telephone advice
- 24-hour, toll-free hot line for emergencies
- Unlimited number of letters and phone calls by a lawyer on the subscriber's behalf
- Simple will or update of current will
- Two 30-minute office consultations

Maximum allowable fees for other services

- Hourly work \$55 an hour or 30% below the attorney's usual rate, whichever is lower
- House closings: \$395
- Uncontested divorces: \$395
- Personal-injury suits: 20% off the lawyers' usual contingency fee if case settled prior to jury selection; 10% off if settled after jury selection or tried to conclusion

was stranded at a bus terminal and wanted to sue the bus company for the delay.

Most often, however, the legal problems are real, if minor. "It's routine stuff," Mr. Feldman readily concedes. The 39-year-old former social activist adds that the practice provides his staff with a decent, though not spectacular, living. Annual salaries for the lawyers at Feldman Kramer, none of whom are graduates of prestigious law schools, range from about \$40,000 to slightly less than \$100,000. For its program work, the firm is usually paid about \$25 a year per subscriber.

Feldman Kramer is organized to handle program matters efficiently. There are a variety of standard wills on file in a word processor, enabling the firm to spew out some 2,000 of the documents annually. The complaint letters the firm sends to retailers and others have several standard paragraphs; the lawyer essentially fills in the pertinent details and sends it off.

One thing the program doesn't appear to encourage is excess litigation. Since Feldman Kramer doesn't perform the litigation itself and doesn't get a referral fee from firms to which it sends work, it has no incentive to push cases into court. If anything, Mr. Feldman says, the program discourages litigation by trying to get matters resolved quickly.

While there are occasional complaints about fees and about delayed responses from lawyers, users of prepaid legal programs seem quite satisfied with the service they provide. Dorothy Chapman, who manages the program for the New York state teachers' union, calls Feldman Kramer's work "outstanding."

Individual clients also generally speak well of the plans. Bill Montaruli, a Long Island schoolteacher, has subscribed for the past three years to the teachers' plan, which is offered for \$49.50 a year. He has called on plan lawyers to handle two house closings (at the plan rate of \$395 each), to review a complex lease and to advise him on how to challenge a ticket for speeding.

"Prior to joining, I had no legal advice," he says.

But there are limits to the tasks that the plan lawyers will perform. The Nationwide program includes a caveat that it doesn't cover appeals, class actions or "repetitious matters where circumstances have not substantially changed." And individual plan attorneys may shy away from personal-injury cases where the payoff is likely to be small.

Quality Control

One significant challenge for a 50-state program such as Nationwide is quality control. "The lead firm in every state is very carefully screened," says William Kirschner, the company's president. "There will be a background check and personal interviews." Mr. Kirschner, a lawyer who founded his company in 1982 and took it public in 1994, says he has done most of the interviews himself.

But the program also includes thousands of referral lawyers who do the work that the lead firm can't handle. Mr. Kirschner acknowledges that they cannot be screened too carefully at the outset. "The only way you can police the quality of attorneys," he says, "is by keeping in touch with the membership."

Nationwide sends evaluation forms to clients, and many send back detailed reports on their lawyers. In one instance, Mr. Kirschner says, he replaced a state's lead firm after clients complained about rude treatment. Referral firms that don't perform well can also be dropped from the program by the lead firm in their state.

Overall, however, prepaid legal programs seem to be delivering what they promise. The American Bar Association, which once resisted the concept, now endorses it. State regulation of the plans is becoming more permissive, and the number of subscribers continues to grow