

Type of Plan	Specific Plan	Number of People Covered	Estimate of Number of Households Covered	Estimate of Number of Households that use plan annually	Types of Services
Group legal services plans	AFL-CIO	40 million	13 million	23,000 to 69,000	legal consultation referrals, discounts
	AARP	17 million	10.5 million	19,000 to 56,000	“
	NEA	5 million	2.7 million	4,000 to 14,000	“
	other including entrepreneurial	8 million	2.6 million	4,000 to 14,000	“
	Elder Hotlines	17 million	10.5 million	51,000	legal advice, referrals, discounts, brief services
	Subtotal	87 million	39.3 million	101,000 to 204,000	
Prepaid legal service plans	employer paid plans	7.2 million	3 million	300,000 to 900,000	footnote ¹
	employee assistance plans	41 million	17.1 million	171,000 to 342,000	legal advice, referrals, discounts
	other employment based plans	5.0 million	2.1 million	1.5 million	footnote 1
	plans sold directly to consumers	4.1 million	2.2 million	1.6 million	legal advice, referrals, discounts, simple will, other limited services
	Subtotal	57.3 million	24.4 million	3.6 million to 4.3 million	
	Total	144.3 million	63.7 million	3.7 million to 4.5 million	
Other	misc. (including student plans provided by universities)	2.5 million			
	armed forces	7.0 million			
	Grand Total	153.8 million²			

¹ These plans vary widely from covering the most common legal problems which do not involve extensive trial work – to covering only advice, referrals, discounts and simple wills.

² Many people are covered by more than one plan. If duplications are eliminated, this figure drops to 122 million.

Notes to Chart

AFL-CIO has about 13 million members. Source is www.AFLCIO.org. Although some of these members are probably in the same household, 13 million is estimated as the number of households. Usage rate is assumed to be the same as for AARP's plan although it is probably less since AFL-CIO does not have direct contact with its members as AARP does. 13 million is also high as all members probably don't live in areas served by participating attorneys.

AARP. AARP estimates there are about 1.6 members per household. Usage rate is based on an AARP survey of attorneys in 2000 which found that attorneys averaged 17 new clients. However, the time period involved was not clear from the survey's question. The 19,000 figure is based on assuming 17 new clients per year for about 1100 participating attorneys. The 56,000 figure is three times higher based on the assumption that attorneys only report 35-60% of member contacts since they often do not record free consultations and prior AARP surveys show that only 35-60% of member users are charged any fee.

NEA: NEA has about 2.7 million members. Source is www.NEA.org. Although some of these members are probably in the same household, 2.7 million is estimated as the number of households. The usage rate is assumed to be the same as for AARP's plan although it is probably less because NEA relies on its state offices to tell members about the program. It is difficult to find any mention of the program on NEA's website. Also some NEA members probably live in areas unserved by participating attorneys.

Other including entrepreneurial: The ratio of people to households is assumed to be the same as for the AFL-CIO. The usage rate is assumed to be the same as for AARP's plan.

Elder Hotlines: The ratio of people to households is assumed to be the same as for the AARP plan. The number of households who use the hotlines is recorded and reported by the individual hotlines.

Employer paid plans: An April 14, 2001 letter from The American Prepaid Legal Services Institute to the Joint Committee on Taxation, U.S. House of Representatives, estimates that 3 million employees are covered. The letter states that this estimate may be 10% high. Some of these members are probably in the same household, another reason the 3 million household figure may be high. API states that annual utilization rates for these plans have historically been 10% to 30%.

Employee Assistance Plans: The ratio of people to households is assumed to be the same as for employer paid plans. The former Director of Law Phone/ACS, one of the largest providers of EAP legal services, estimates that the usage rate is 1% to 5% depending on the company and EAP promotional efforts, but that 1% to 2% is the most common.

Other employment based plans: The ratio of people to households is assumed to be the same as for employer paid plans. The annual usage rate is based on ARAG's data on the annual usage rate of its Ultimate Advisor Plan which is 70%. This high usage is due to

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the fact that people with existing legal needs are the most likely to purchase these plans. In fact, the usage during the first year after the plan is purchased is probably much higher than 70%, but this declines the more the plan is renewed.

Plans sold directly to consumers: The ratio of people to households is assumed to be the same as for employer paid plans. The annual usage rate is assumed to be the same as for “other employment plans.”

The Future of Group and Prepaid Legal Services

The prospect for significant growth in group and prepaid legal services coverage is limited.

Group Plans

The recent growth in group plans is primarily due to an increase in the coverage of AARP's plan. However, this is not likely to continue as it was due primarily to the expansion of the plan into new states; now most states are covered. The AFL-CIO and NEA plans are mature plans and are not likely to grow unless their membership experiences growth. The expansion of elder hotlines is limited by public funding which is not likely to increase significantly in this era of tax cuts and deficit government spending.

The utilization of these group plans is not likely to increase substantially because of an inherent problem with marketing legal services. Most people do not pay attention to legal services marketing until they have a legal problem, as most people don't expect to need a lawyer. When they do incur a legal problem, there is a narrow window, consisting of a few weeks, between the incidence of the problem and their retention of a lawyer's services (i.e., the time it takes to find a lawyer). If the marketing does not occur within this window, it is likely to be ignored. Thus, to substantially raise utilization, membership groups would have to significantly increase their marketing, which they can not afford to do.

Prepaid Plans

A major barrier to the expansion of prepaid plans is the fact that people don't want to buy something they may not use, and most people don't expect to use a lawyer in the near future. The growth of prepaid plans sold directly to consumers is not promising unless Pre-paid Inc. continues its rapid growth, which is doubtful given the questionable nature of their sales techniques and their inability to retain devoted customers. The number of people covered by the Legal Services Plan of America has remained relatively flat lately. The growth in "other employment based" plans is likely to continue; their growth rate has been 5.5% per year recently. EAP plans are also likely to grow, but this growth has been modest in the past few years (1.2% annually). Enrollment in employer paid plans is likely to continue to decline as employers shift the cost of employee benefits to employees.

Ideas for Generating Growth in Prepaid Plans

One reason for the success of group and prepaid legal services plans has been their ability to commoditize legal services. Prepaid plans are able to market legal services for a fixed annual fee instead of basing fees on an hourly rate as most lawyers do. These plans are able to estimate utilization rates and limit coverage so that costs are controllable and predictable. Legal consultations and simple wills, the most popular commodities sold, can be purchased for a fixed fee because telephone consultations consistently average ten minutes and simple wills can be produced quickly using document generation software. Also, lawyers are willing to risk a loss on these services in order to attract legal business that is not covered by the plans and, therefore, can be billed at normal hourly rates.

However, internet legal services, commercially available legal software, legal document preparation services, and court self-help centers also serve to commoditize legal services. These services are either free or sold for a fixed fee. They have a competitive advantage over prepaid plans because they can be purchased after the legal need has arisen. As these new services become more available and visible, the sale of prepaid plans is likely to suffer.

Therefore, the prepaid industry must develop a better product using its national networks of lawyers. One possibility is selling legal advice cards that are good for one telephone consultation, available 24/7, in any state in the U.S. Consumers could use these cards like phone cards by calling an 800 number and providing the PIN number from the card. The user would then be transferred to a lawyer in the state of choice who is experienced in the user's problem area. Consumers are more likely to purchase this product in advance for the comfort of having it available in case they need it in an emergency. Also it wouldn't have to be used within a one year time period as legal plans do.

Another possibility is selling legal plan services on a "pay-as-you-go" basis instead of in advance. Employees and consumers could be given access to a website which would link them to a national network of lawyers. Users could buy advice, wills, legal documents and other services that lawyers are willing to provide on a fixed fee basis, by using a credit card and being matched to a participating lawyer in their community who would provide the purchased services. ARAG is experimenting with such a system which is accessible to employees through their office computers.

Prepaid and group plans have a competitive advantage over the new array of commoditized legal services in that a lawyer is involved in the process and the plans have developed extensive networks of lawyers in private practice. Another advantage is that they incur lower marketing costs by selling their product through employers, unions, associations and other intermediaries. These plans must learn how to use these advantages without requiring prepayment or additional expensive marketing techniques.