

**SUFFOLK COUNTY MUNICIPAL EMPLOYEES
LEGAL SERVICE FUND**

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**Suffolk County
Municipal Employees
Legal Service Fund**



**Legal Reference
Guide**



January 2008

**30 Orville Drive, Suite D
Bohemia, New York 11716**

(631) 319-4099

www.scmef.org

13. Any payment in excess of reasonable and customary fees in Suffolk County for the specific legal matter involved;
14. The Fund will not pay or reimburse members, spouses/domestic partners and/or dependent children for court costs and/or filing fees, fines or penalties;
15. Any portion of legal expense for a legal matter that is jointly shared with a person not covered by the Fund.

NOTE: If you have any questions regarding the coverage, benefits or exclusions, please contact the Fund Office at (631) 319-4099.

As a guide to members in their utilization of the Legal Benefit package, the following list specifies, but does not limit, the particular and general exclusions from the plan:

1. Any proceeding or dispute or controversy with, or against, the Suffolk County Municipal Employees Benefit Fund or Suffolk County Municipal Employees Legal Service Fund, or their agents or officers;
2. Any proceeding or dispute or controversy with, or against, any contributing employer, or their agents or officers;
3. Any proceeding, dispute or controversy directed against the Association of Municipal Employees or any other participating unions, or any of their officers, agents, or attorneys;
4. Any proceeding, dispute or controversy where there is a prohibition of the Legal Services Fund defraying the cost of such services by provision of law;
5. Any business matter wherein, as an officer or shareholder, etc., a member or dependent is directly or indirectly involved;
6. Matters that concern payment of income tax including, but not limited to, preparation or filing of income tax returns;
7. Any proceeding, action or controversy where legal fees are payable by virtue of statute or by order of the court;
8. Any proceeding, action or controversy wherein two or more parties pool or combine benefits for the purpose of ascertaining a claim for their mutual benefit, i.e., class actions;
9. Any amicus curiae activities;
10. No benefits or allowances will be paid for services or advice when it involves a duplication of the same service or advice that was previously obtained in connection with the same problem;
11. Any action, dispute, proceeding or controversy in which insurance will cover legal services, or through which any government agency or attorney, such as Federal, State or Local, that provides legal services;
12. Any matter that incurred legal expenses that commenced before the member, spouse/domestic partner or dependent child became eligible to receive the benefit under this plan or that was completed when the claimant was no longer eligible under this plan; the exception being any Real Estate matter that incurred legal expenses, in which an attorney was retained by the employee before the employee became eligible to receive the benefit under this plan.

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INTRODUCTION

The Plan and Coverage

Responding to the needs of members for flexibility and free choice of attorney, this legal plan is provided by the Fund. The Trustees have adopted a plan that partially covers attorney fees for services through benefit allowances. This allowance feature enables our members to choose an attorney according to individual needs and, as the type of case warrants, allowances may possibly reimburse a substantial portion of average fees for usual cases.

Charges over these allowances are the responsibility of the members and, in prolonged or complicated cases, members should expect to pay higher fees. You should explore, with your chosen attorney, the estimate of costs involved for any problem for which you seek help, acquiring a working concept of what services are covered. Once you decide to retain a law firm, you may then be required to make an initial payment.

With a plan of such flexibility, a restriction must be imposed that if a court awards full or partial payment for a member's legal fees, the Fund's payment of allowances shall be reduced by the amount awarded. Specifically, the total court award and Fund allowance cannot exceed the amount charged by the attorney. Costs of documents, filing and court fees, etc., are not covered by this plan. Second-opinion fees are also excluded from coverage. No Fund member is compelled to use this plan of benefits.

Enrolling

In order to be eligible for benefits, you must have completed a Benefit Fund enrollment card for Fund Office use, which provides necessary information for processing claims. When filed at the Fund Office, this card confirms whether you are a covered member or an eligible non-member dependent. With this data, the attorney-client relationship will remain exclusively between you and your chosen counselor, and yet enable the Fund to properly process your benefit. No employee or Trustee of the Fund can interfere with this relationship.

Claiming

First, please refer to the eligibility portion of this booklet to determine your eligibility status.

If you wish an allowance toward the attorney fees for a legal service, please consult this booklet. If the particular service you desire is covered, note the amount of the allowance. It may help you decide who shall be your attorney. Once you have chosen your attorney, call or write the Benefit Office at 30 Orville Drive, Suite D, Bohemia, New York 11716, telephone number (631) 319-4099 or you may request one on our website, www.scmebf.org. The Fund office will then supply you with a form

before an administrative agency.

Reminder: Matters involving businesses owned or operated by member or his/ her eligible dependent are not covered.

CONTINGENT FEE MATTERS

PERSONAL INJURY (NEGLIGENCE) MATTER

Payment for this type of legal proceeding is customarily by contingent fee. Anyone who desires legal services, in connection with the commencement of a claim for personal injuries suffered as a consequence of negligence, can contact a law firm of his/her choice. However, the legal counsel who you choose has a right to judge whether the case is worthy of prosecution before acceptance of your retention.

A \$35 consultation benefit is payable if the law firm you consult is not retained and charges you a consultation fee.

Contingent fee matters are those in which a recovery of monies is attempted through a legal action, with an agreement with your attorney that fees are charged only if the action is successful. Generally, the fee is stated as a percentage of the recovered amount. It is customary, whether the litigation is successful or not, for you to reimburse your attorney for most costs incurred by his/her office. These costs include: disbursements, charges and other expenses, such as police and medical investigative reports, costs of serving subpoenas, witness fees, etc.

ESTATE SETTLEMENT

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is a named heir to an estate.

What is the Benefit

Preliminary legal services in connection with the probate or settlement of an estate to which he or she is named as an heir.

Limitations

Inasmuch as fees are generally set as a percentage of the estate, no benefit allowance is payable other than a \$35 consultation benefit.

GENERAL EXCLUSIONS FROM ALL BENEFITS OF THE LEGAL SERVICES FUND

The Legal Services Fund provides benefits through allowances only as specifically stated and described herein. Legal Services that have not been so described are excluded from the plan.

- Without trial, Supreme Court
Up to \$ 400, after deductible
- With trial, District Court
Up to \$ 450, after deductible
- With trial, Supreme Court
Up to \$ 550, after deductible

Limitations

Only one debt collection allowance is permitted per family per calendar year.

LEGAL DEFENSE BENEFIT IN OTHER CIVIL MATTERS

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is resisting a claim that does not fall within any of the specified benefits listed in this booklet.

What is the Benefit

Defense in a civil legal proceeding in which the member, his/her spouse/ domestic partner or dependent child is a named defendant in an action brought before a court or agency involving his or her rights.

Benefit Allowance

- Without Trial
Up to \$300, after deductible
- With Trial
Up to \$550, after deductible

Limitations

Coverage is limited to cases brought before the following or similar bodies for adjudication:

Supreme, Surrogate's and District Courts of Suffolk County; United States District Court for the Eastern and Southern Districts of New York; United States Customs Court; Supreme, Surrogate's and County Courts of New York, Brooklyn, Queens, Richmond, Bronx, Nassau, Rockland, Putnam and Westchester Counties; Civil Courts of New York, Brooklyn, Queens, Richmond and Bronx Counties; District Court of Nassau County, Administrative Agencies and Bureaus.

Examples of this legal defense benefit would be costs of a lawsuit alleging breach of contract or a lawsuit concerning a garnishment or medical expense claims. Such problem may be successfully resolved after consultation or it may require steps leading to actual representation and defense

to be completed by you and your attorney.

Payment

Payment is not made by the Fund until the legal matter is completed. Members terminating service prior to completion of a matter are **NOT** eligible for an allowance on that matter. In order for a claim to be eligible for payment, the member must have been eligible on the date the attorney was retained and/or commenced legal work on your matter (continuously until the matter is completed).

After legal services are completed, you - not your attorney - should return this form to the Fund, along with a statement of fees charged and any required paperwork. Your allowance for services will be sent to you promptly. All claims must be filed within one (1) full calendar year from the completion date of the legal matter.

It should be noted that from time to time the Trustees may, in their discretion, add to, amend, change, delete or modify existing Benefit Fund rules and regulations and benefit allowances.

ELIGIBILITY

Who Is Eligible

Covered Members

Covered members include: all employees of Suffolk County covered by the collective bargaining agreement between the County of Suffolk and The Association of Municipal Employees for whom contributions are payable to the Suffolk County Municipal Employees Benefit Fund (herein "the Benefit Fund"); any other employees of the County of Suffolk, including, but not limited to, correction officers, deputy sheriffs and probation officers, that may be deemed eligible by the Board of Trustees, for whom contributions are made payable to the Benefit Fund; the judges and court administrative personnel of the County of Suffolk for whom contributions are made payable to the Benefit Fund; employees of towns, villages and subdivisions of municipalities located in the County of Suffolk that may be deemed eligible by the Board of Trustees, for whom contributions are made payable to the Benefit Fund; employees of other entities, such as the Vanderbilt Museum, that may be deemed eligible by the Board of Trustees, for whom contributions are made payable to the Benefit Fund; employees of The Association of Municipal Employees for whom contributions are payable to the Benefit Fund by the Union and employees of the Benefit Fund for whom contributions are payable to the Benefit Fund.

Dependents

Spouses and dependents of covered members are covered for certain

benefits as specifically hereinafter described in this booklet. Dependents, as defined by the Fund, are your spouse/domestic partner, unmarried dependent children who have not reached their 19th birthday and unmarried dependent children who are full time students at a college or university who have not reached their 25th birthday; an unmarried child, regardless of age, who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so prior to the age of nineteen and wholly depends upon the covered member for support. Dependent children include legally adopted children and stepchildren who reside with and chiefly depend on the covered member for support (derive more than 50% of support on an annual basis from the member).

Status

1. In general, subject to the requirements pertaining to the definition of a covered member, employees are eligible for benefits only so long as they are in an active payroll status. Eligibility for benefits terminates as of the effective date that your employment is terminated. Therefore, if you are a covered member at the time that you retain an attorney but are no longer on active payroll status at the time that a legal matter is completed, you are not covered under this plan and the costs are your sole responsibility.
2. Active payroll status here means the period for which contributions are paid, or should have been paid, for the employee by the employer to the Benefit Fund.
3. Members who go on an approved leave of absence from active employment will remain eligible for benefits for one year commencing with the date of such leave provided they don't resign, get terminated or their leave is disallowed.
4. All employees covered by the Legal Service Fund and in an active payroll status will be eligible for benefits after completion of two full months of employment following the month in which they were hired. For example, an employee hired on February 15 shall be eligible for benefits on May 1; an employee hired on June 2 shall be eligible for benefits on September 1. **The Fund reserves the right to request any documents necessary to establish eligibility of a member or dependent.**

Extension of Dependent Eligibility in Case of Member's Death

For a period of 90 days after the death of a member, all legal service benefits for a spouse/domestic partner and eligible dependents, as defined by the Fund, will continue to the extent that they were entitled to receive

What is the Benefit

Legal services are covered during the defense of an alleged traffic violation when the status of the alleged violator's driver's license is adversely and seriously effected and must be determined by administrative adjudication.

Benefit Allowance

Up to \$175, after deductible

Limitations

Member, spouse/domestic partner or dependent child must be the driver of the vehicle. Multiple allowances for violations received on the same date are payable only if adjudicated on different dates.

AUTOMOBILE DEFENSE OVERAGE MATTERS

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is a defendant in an action involving a vehicle.

What is the Benefit

Legal services for the defense of an action involving operation of a vehicle wherein damages or personal liability exceed face amount of insurance policy.

Benefit Allowance

Up to \$450, after deductible

Limitations

Overage cases only: That is a suit for damages that would exceed the face amount of the insurance policy. Legal representation provided by insurance companies is not reimbursable.

DEBT COLLECTION DEFENSE

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is a defendant in a claim involving debt collection.

What is the Benefit

Defense in a legal action started against the defendant involving their rights in resisting a claim before the District Courts and Supreme Court of the County of Suffolk.

Benefit Allowance

- Without trial, District Court
Up to \$ 300, after deductible

Up to \$ 400

- _ Legal representation in convened court-martial or military board

Up to \$ 750

Limitations

Only the above stated matters that relate directly to the member, spouse/domestic partner or dependent's rights as a veteran are covered by the plan.

\$ 50 DEDUCTIBLE BENEFITS

NOTE: Members or dependents, as defined by the Fund, are required to pay the first \$50 of the fee for the following legal services in order to be eligible for these allowances:

TRAFFIC VIOLATION REPRESENTATION MISDEMEANOR

Who is eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is charged with a traffic violation misdemeanor.

What is the benefit

Legal services are covered during the defense of alleged violations of the vehicle and traffic law before a court or administrative agency. The matter must be of a serious nature that may affect the status of the defendant's driver's license. The member or eligible dependant must have been the driver of the vehicle which is the subject of the charges.

Benefit allowance

- _ Without Trial
Up to \$ 225, after deductible
- _ With Trial
Up to \$ 375, after deductible

Limitations

Member or dependent must be the driver of the vehicle charged with the alleged violation. Multiple allowances for violations received on the same date are payable only if trials are held on different dates.

TRAFFIC VIOLATION REPRESENTATION OTHER THAN MISDEMEANOR

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who has been charged with a traffic violation.

such benefit on the date of the decedent's death. In addition, during this extension period, the consultation benefit is available to the surviving spouse/domestic partner or, if there is none, the eldest surviving dependent.

Appeal Procedure

Within 180 days after receipt of notice that your claim has been denied, in whole or in part, you, or your duly authorized representative, may file a written request for a review of your claim by the full Board of Trustees. Such request must set forth the basis for the appeal, and all pertinent data to substantiate your position. The Board will act upon a request for a review within a reasonable period of time after receipt thereof. You will be notified, in writing, of the action taken by the Board of Trustees. Such notice shall include the specific reasons for the decision and specific references to the Plan provisions on which the decision was based. All such decisions will be final, conclusive and binding.

All appeals must be directed **in writing** to: The Board of Trustees, Suffolk County Municipal Employees Benefit Fund, 30 Orville Drive, Suite D, Bohemia, New York 11716.

GENERAL LIMITATIONS

Legal Benefits under the plan are limited to \$1,000 per calendar year per family. The calendar year runs from January 1 through to December 31st. Allowances are paid only to the extent of fees charged. The Fund will not absorb or be responsible for any fees or charges that are owed by a member beyond the allowances herein. Only matters specified in this booklet are covered by the plan.

There are two types of benefits: regular benefits and \$50 deductible benefits.

FEE SCHEDULE

REGULAR BENEFITS

GENERAL CONSULTATION

Who is Eligible

Member obtaining an in-person legal consultation with an attorney regarding an actual or assumed legal problem.

What is the Benefit

Five, one-half-hour sessions on separate dates, each calendar year, concerning unrelated legal questions.

Benefit Allowance

\$35 per general consultation session at an attorney's office.

Limitations

Business matters, excluded matters and telephone consultations are not covered. When an attorney is retained to provide a specific service for which Benefit allowances are provided by the Fund, such attorney fees shall include the initial general consultation, as well as all other consultations.

WILLS**Who is Eligible**

Member and spouse/domestic partner.

What is the Benefit

Preparation and execution of a Will.

Benefit Allowance

\$65 per will

Limitations

Each member and spouse/domestic partner may utilize this benefit once every five years. Updating, altering, or adding to an existing will is not covered.

PRINCIPAL RESIDENCE REAL ESTATE CLOSING**PRINCIPAL RESIDENCE REFINANCE****Who is Eligible**

Member who is selling, purchasing or refinancing their principal residential dwelling, condominium or cooperative.

What is the Benefit

Legal representation for the sale, purchase or refinance of property, as described above.

Benefit Allowance

Up to \$600 per calendar year, per completed sale, purchase or refinance.

Limitations

Only one sale and purchase or refinance, per family, in any year is covered. Closings on building loans are considered part of the final closing that will result in the member taking up immediate residency and is not covered for a separate closing benefit. This benefit provides representation with respect to one's personal residence (not to exceed a two-family house). Business property is not covered by this benefit. **Property situated outside of Suffolk County is NOT covered under this benefit.** This benefit requires that your attorney be present at the actual closing. Fees paid to the attorney representing the lending institution are not covered. The member must physically reside in the home for which claim is being made.

eligible for payment on a divorce action until after June 14th, 2007.

Allowances will be reduced if court awards payment of attorney's fees or portions thereof. Combined payments may not exceed fees charged.

COURT-ORDERED SUPPORT**Who is Eligible**

Member who is involved in an action for support, modification of an existing support order, or an enforcement proceeding concerning a support order.

What is the Benefit

Legal advice and representation in a court proceeding to award or modify support payments, or to commence or defend contempt or enforcement proceedings.

Benefit Allowance

Up to \$275 maximum per calendar year for combined matters.

Limitations

Covers only proceedings not commenced in conjunction with a divorce, separation or annulment.

VETERAN AND SERVICE PERSON'S RIGHTS**Who is Eligible**

Member, spouse/domestic partner or dependent child, as defined by the Fund, seeking remedial action in relation to a denial of their veteran's rights by any military board or agency of the United States government.

What is the Benefit

Legal services in:

- _ A denial of veteran's benefit or right
- _ Changes in type of military discharge
- _ Cases of court martial
- _ Connection with military boards convened for the purpose of imposing a penalty, an administrative discharge or a less than honorable discharge from military service.

Benefit Allowance

- _ Legal advice and counsel upon a denial of a veteran's right for benefits
 - Up to \$ 125
- _ Legal representation to effect changes in types of military discharges

ARRAIGNMENT SERVICE

Who is Eligible

Member, spouse/domestic partner or dependent child, as defined by the Fund, who is a defendant in a criminal arraignment proceeding.

What is the Benefit

Representation in an arraignment proceeding requiring a personal appearance by legal counsel.

Benefit Allowance.

Up to \$200

Limitations

Costs of legal representation beyond the arraignment stage are not covered. Thus, should a covered member or dependent desire to retain an attorney beyond the arraignment stage, such individual must make necessary fee arrangements directly with the attorney of his/her choice.

DOMESTIC RELATIONS REPRESENTATION

Who is Eligible

Member involved in a matrimonial matter requiring legal representation.

What is the Benefit

Representation by an attorney in a separation, annulment, or divorce.

- **Uncontested** matters are those resolved up to, and including, a pre-trial conference.
- **Contested** matters are those not settled at the pretrial conference, but settled prior to an actual court trial.
- **Litigated** matters are those resolved only after a Supreme Court trial and include any referral to and representation at Family Court.

Benefit Allowance

- **Uncontested** Separation, Annulment or Divorce
Up to \$ 500
- **Contested** Separation, Annulment or Divorce
Up to \$ 600
- **Litigated** Separation, Annulment or Divorce
Up to \$ 700

Limitations

Domestic relations benefits limited to one per elapsed year. Example: If a separation agreement is completed by June 15, 2006, you would not be

In the event that members purchase a home with a non-member, the member shall be entitled to reimbursement at an amount equal to the percentage of the member's interest in the real property. For example: If it is a joint purchase with another person not entitled to Fund benefits, the reimbursement is divided by half and so on.

If the member is involved in a real estate transaction that falls through after the contract has been signed (mortgage not approved, etc.), the claim can be paid as a contract but is not eligible for the real estate closing benefit.

PRINCIPAL RESIDENCE MORTGAGE PROTECTION

Who is Eligible

Member or spouse/domestic partner who is a defendant in a proceeding to foreclose a mortgage regarding a dwelling, condominium or cooperative, which the covered member and/or spouse/domestic partner own and in which the member principally resides.

What is the Benefit

Legal advice and/or representation in the defense of a mortgage foreclosure involving any of the above stated residences.

Benefit Allowance

An allowance not to exceed \$150, if the matter is resolved before trial. An allowance not to exceed \$300, should the matter proceed to trial.

Limitations

One foreclosure proceeding per calendar year, per family.

TENANT/ LANDLORD

Who is Eligible

Member or spouse/domestic partner who rents, for personal residential use, a private dwelling, condominium, apartment or rooms as a tenant. The member must principally reside in the dwelling being claimed.

What is the Benefit

Legal advice and/or representation for a defendant in defense of a dispute between the member or spouse/domestic partner as tenant and the landlord.

Benefit Allowance

Up to \$300

Limitations

One Landlord/Tenant defense per year, per family.

NAME CHANGE**Who is Eligible**

Member.

What is the Benefit

Legal advice and representation in a change of name procedure.

Benefit Allowance.

Up to \$350 per family

Limitations

Limited to changes of name sought by member for self, spouse/domestic partner and dependent children.

ADOPTION**Who is Eligible**

Member who seeks representation in an adoption proceeding.

What is the benefit

Legal advice and representation by an attorney in a formal adoption proceeding.

Benefit Allowance

Up to \$500 per adopted child

Limitations

Benefit allowance does not cover the payment of any fees or expenses to adoption or other agencies.

TAX PREPARATION BENEFIT**Who is Eligible**

Member.

What is the Benefit

The Fund will pay **\$30** for the preparation of **IRS form 1040A (or 1040EZ)** or **\$70** for the preparation of **IRS form 1040** for either the member or for a joint return of the member and spouse/domestic partner. Members may use any tax preparer, enrolled agent or accountant of their choice.

Participating Panel

The Fund has compiled a panel of Participating Tax Preparers who have agreed to accept \$30 as payment in full for the preparation of form 1040A, including preparation of the related New York State tax return, and \$75 for the preparation of form 1040, including preparation of the related New York State return. The member is responsible for paying \$5 of the 1040 preparation charge. The Fund will remit the balance to the

preparer.

Limitations

Members are entitled to reimbursement for **one** tax return preparation each calendar year. Electronic filing fees are not covered.

Claiming

Obtain a tax return claim form from the Fund office. If you utilize a participating tax preparer, submit the voucher directly to them. Otherwise, send the completed voucher with a paid bill to the Fund office. The bill must be on the preparer's professional letterhead. Calling or business cards are not acceptable. A copy of page 1 and 2 of your federal return must be filed with the Fund. The tax preparer's signature must be visible on page 2 of the return. If filing electronically, also must submit IRS form number 8879 or 8453 with the tax preparer's signature. Financial information contained on the tax return is not required. The Fund encourages removal of such information prior to filing your claim.

CONTRACTS**Who is Eligible**

Member or spouse/domestic partner who seeks to obtain legal services regarding a non-business or real estate contract.

What is the Benefit

Legal advice and representation in the preparation and execution of a personal, non-business, or real estate contract.

Benefit Allowance

Up to \$125

Limitations

Does not provide allowances for the preparation and execution, or review of business contracts. Contract must be signed by all interested parties.

PERSONAL BANKRUPTCY**Who is Eligible**

Member or spouse/domestic partner filing for personal bankruptcy.

What is the Benefit

Representation by an attorney in a personal bankruptcy proceeding.

Benefit Allowance

Up to \$350

Limitations

Limited to one personal bankruptcy per family, per calendar year. Business bankruptcies are not covered.