

## **Draft Rule IV: Work & Save Marketplace:**

- I. Issuing Agency:** New Mexico Work and Save Board, Office of the State Treasurer.
- II. Scope:** This rule applies to the New Mexico Work and Save Board and its employees and contractors, including the marketplace operator and financial service providers that offer or seek to offer plans on the New Mexico Work and Save Marketplace; and employers that purchase retirement plans from the marketplace.
- III. Statutory Authority:** This rule is authorized by NMSA 1978, Sections 58-33-4 and 58-33-8, as amended.
- IV. Duration:** Permanent
- V. Effective Date:** TBD
- VI. Objective:** The objective of this rule is to implement the provisions of the New Mexico Work and Save Act.
- VII. Fees for financial service providers participating in the Marketplace**
  - A. In accordance with Subsection H of Section 58-33-8 NMSA 1978 of the New Mexico Work and Save Act, the New Mexico Work and Save board establishes the following non-refundable administrative fees for financial service firms that offer plans on the New Mexico retirement plan marketplace:
    - (1) Provider application fees:
      - a. initial application fee not to exceed \$200;
      - b. annual renewal fee not to exceed \$100;
      - c. deactivation or reactivation fee not to exceed \$200;
      - d. penalty for late renewal \$100 per month or portion of a month for which the renewal fee is in arrears, the penalty not to exceed \$1,000.
    - (2) Annual subscription fees for plans approved and active on the New Mexico retirement plan marketplace. The annual subscription fee for each:
      - a. traditional or Roth 401(k)-type plan offered shall not exceed \$5,000;
      - b. multiple employer-type plan, pooled employer-type plan, or Simple 401(k)-type plan offered shall not exceed \$3,500;
      - c. Savings Incentive Match Plan for Employees-type plan (SIMPLE IRA) offered shall not exceed \$2,500;
      - d. Simplified Employee Pension Plan (SEP) individual retirement-type plan offered shall not exceed \$2,500;

- e. Payroll-deduction individual retirement-type plan offered shall not exceed \$2,500; and
  - f. any other retirement-type plan offered but not included in paragraphs a through e above shall not exceed \$2,500.
- B. Before accepting applications for provider participation on the New Mexico retirement plan marketplace, the board shall establish the start-up fee amount that will be charged for each fee prescribed in Section A of this Section. Thereafter, on or before April 30 of each calendar year, the board shall establish the amount to be charged effective July 1 of that year for each fee prescribed in Section A of this Section. Within ten (10) business days of establishing the fee amounts, the board shall notify marketplace providers of the established fees and post the fees to its website.
- C. On and after July 1, 2028, and consistent with the requirements of NMSA 1978 58-33-8(H), the amounts charged for fees prescribed in Section A of this Section shall be determined by the board and shall not exceed the actual costs of maintaining the New Mexico retirement plan marketplace in the previous fiscal year.
- D. Payment for fees prescribed in Section A of this Section shall be submitted by check made payable to the New Mexico State Treasurer's Office. Payments shall be credited for use solely for maintaining the New Mexico retirement plan marketplace.

### **VIII. Provider application and minimum requirements to participate in the Marketplace**

A financial service provider seeking approval to participate and offer one or more plans on the retirement plan marketplace shall:

- A. submit an initial, renewal, or reactivation application fee along with a completed corresponding application in the form and manner prescribed by the board;
- B. submit the completed application with any appropriate verifying documentation that shall demonstrate that the provider meets the following minimum requirements:
  - a. the provider is currently licensed, registered, or otherwise authorized to offer financial services in New Mexico;
  - b. the provider and its plan offerings are in compliance with all applicable federal laws to offer retirement plans, including tax laws;
  - c. the provider has been in the business of offering retirement plans or services for at least five (5) years prior to submitting the application;
  - d. the provider's web platform will seamlessly integrate with the Work and Save online platform;
  - e. the provider meets or exceeds best practices in data security;

- f. each plan the provider will offer is a complete product that includes all elements required by employers or employees to establish, fund, and invest retirement savings;
  - g. each plan offering contains investment selection options that are prudent and adequately diversified. The costs and fees charged for each plan offering proposed for the marketplace are the same or less than the costs and fees charged by the provider in the retail market;
  - h. each plan offering shall include the option for an enrollee to roll over or transfer amounts into a different retirement arrangement in accordance with federal tax laws providing for tax-free rollovers or transfers after ceasing active participation in the approved plan. Nothing in this rule shall be construed to limit rollovers, or the portability of an employee's retirement savings into or out of approved plans;
  - i. the provider agrees to pay all application and subscription fees charged for each plan offered by the provider on the New Mexico retirement plan marketplace; and
  - j. by January 31 of each calendar year, the provider agrees to provide the board with the following non-confidential information as of December 31 of the immediately preceding calendar year:
    - i. the number and types of plans opened by the provider through the New Mexico retirement plan marketplace;
    - ii. the number of accounts opened under each plan and each account balance;
    - iii. the number of accounts closed; and
    - iv. the total amount of assets in custody accumulated as of the reporting date for all plans and all years the provider has offered one or more plans on the marketplace.
- C. The board will review and approve the applications of financial service providers for participation on the marketplace, based on standard industry criteria, and shall not provide unfair advantage to any entity.

**IX. Procedures and criteria for approving, rejecting, or removing plans on the Marketplace**

The board may approve a diverse array of retirement plan options to be offered on the marketplace.

- A. The board shall not exclude from the marketplace a retirement plan or option within a plan that meets the requirements of this rule and is otherwise allowed under federal or state law, including plan design options that are selected by the employer.
- B. An approved plan shall be removed from the marketplace if the plan, or the financial service provider offering the plan, no longer meets the requirements of this rule, the New Mexico Work and Save Act, or any other applicable law or rule.

- C. Covered employers and covered employees are eligible to purchase approved plans from the marketplace.

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