

Dealer Advisory

March 25, 2020



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U.S. DOL Releases Guidance on Sick Leave & Other Issues

A regularly updated "**Coronavirus Toolkit**" is available within the MADA website. From the [home page](#), go to the *FAQ* tab and select *Coronavirus Toolkit* or [click here](#).

We are still waiting for feedback from Governor Whitmer's office; however, there are a few new updates we want to pass along to dealers. To remind dealers of important information, we sometimes reprint links or details. To help separate the reminders from the new information, we have added **NEW!** to the information being included for the first time.

Please continue to contact MADA and DADA with your questions and comments. We will send another notice as soon as we have more information from the governor.

U.S. DOL Releases Guidance on Sick Leave and Other Issues

Paid leave provisions effective on Apr. 1; will apply to leave taken between Apr. 1 & Dec. 31, 2020

NEW! March 24 -- The U.S. Department of Labor's Wage and Hour Division (WHD) announced its first round of published guidance to provide information to employees and employers about how each will be able to take advantage of the protections and relief offered by the Families First Coronavirus Response Act (FFCRA) when it takes effect on April 1, 2020.

FFCRA will help the United States combat and defeat COVID-19 by giving all American businesses with fewer than 500 employees funds to provide employees with paid leave, either for the employee's own health needs or to care for family members. The legislation will ensure that workers are not forced to choose between their paychecks and the public health measures needed to combat the virus while at the same time reimbursing businesses.

The guidance – provided in a [Fact Sheet for Employees](#), a [Fact Sheet for Employers](#) and a [Questions and Answers document](#) – addresses critical questions, such as how an employer must count the number of their employees to determine coverage; how small businesses can obtain an exemption; how to count hours for part-time employees; and how to calculate the wages employees are entitled to under this law.

[Keep reading here.](#)

FAQ from Fisher Phillips

NEW! March 24 -- Fisher Phillips created a legal alert highlighting some of the more common employer questions that were addressed in the DOL guidance. Please see a portion of the Fisher Phillips alert below, and [read the complete notice here](#).

Is The FFCRA Retroactive? A common inquiry was whether employees can take paid sick leave under the FFCRA prior to the effective date (that would count towards their FFCRA paid sick leave entitlement), and whether the law will have retroactive effect. The DOL attempted to address these issues by stating:

- **Can my employer deny me paid sick leave if my employer gave me paid leave for a**

reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect? *No. The Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.*

- **Are the paid sick leave and expanded family and medical leave requirements retroactive?** *No.*

Does Emergency Paid Sick Leave And Emergency FMLA Run Concurrently For Leave Related To School Closures? The qualifying reason for leave under the Emergency FMLA involves caring for a child when their school or place of care is closed. One of the six qualifying reasons for Emergency Paid Sick Leave similarly addresses this same reason. Therefore, many employers have inquired as to whether these leaves will run concurrently when taken for the same qualifying reason. The DOL addressed this issue when it stated:

- **If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?** *You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless the you elect to use existing vacation, personal, or medical or sick leave under your employer's policy. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.*

REMINDER: Resources From the Michigan Department of Labor and Economic Opportunity & Unemployment Insurance Agency

NEW! March 25 -- [UIA Offers Update on Unemployment System, Provides Tips to Get Help as Soon as Possible](#)

March 23 -- [COVID-19 Employer Presentation: What Michigan is doing](#)
To help you understand the role that Unemployment Insurance Agency can play in your planning

March 18 -- [Guidance to Employers Contemplating Potential Layoffs](#)
Information on Work Share; Temporary Leave vs. Termination; Steps for employers placing employers on temporary unpaid leave

Updated as needed -- [State of Michigan Coronavirus information for employers & workers](#)
Additional links, fact sheets and other guidance for both employers and employees

NADA is Supporting Dealers at the National Level

- **March 23** -- NADA, other trade groups, [sent a letter to President Trump](#) asking for clearer guidance on "essential services."
- **March 23** -- NADA published a blog post, [Auto Dealerships are Stepping Up During COVID-19](#), highlighting how dealers are working to keep their customers, employees and communities safe.
- **March 23** -- NADA published [FAQs on the Families First Coronavirus Relief Act.](#)

Please feel free to contact DADA at (248) 643-0250 or MADA at (800) 292-1923 if you have any questions.

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