

1 **UNINSURED AND UNDERINSURED MOTORIST**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Keven J. Stratton**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill amends provisions relating to uninsured motorist and underinsured motorist
10 coverage.
11

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies provisions relating to uninsured and underinsured motorist carriers'
15 response to a demand for payment;
- 16 ▶ allows a covered person a reasonable time to cure an alleged deficiency in the
17 covered person's demand for payment; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **31A-22-305**, as last amended by Laws of Utah 2020, Chapter 145

26 **31A-22-305.3**, as last amended by Laws of Utah 2020, Chapter 145



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **31A-22-305** is amended to read:

30 **31A-22-305. Uninsured motorist coverage.**

31 (1) As used in this section, "covered persons" includes:

32 (a) the named insured;

33 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
34 children;

35 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
36 who are residents of the named insured's household, including those who usually make their
37 home in the same household but temporarily live elsewhere;

38 (d) any person occupying or using a motor vehicle:

39 (i) referred to in the policy; or

40 (ii) owned by a self-insured; and

41 (e) any person who is entitled to recover damages against the owner or operator of the
42 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
43 Subsection (1)(a), (b), (c), or (d).

44 (2) As used in this section, "uninsured motor vehicle" includes:

45 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
46 under a liability policy at the time of an injury-causing occurrence; or

47 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
48 [31A-22-304](#); and

49 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
50 the deficiency;

51 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
52 by the motor vehicle operator;

53 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
54 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
55 60 days; or

56 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
57 the motor vehicle is declared insolvent by a court of competent jurisdiction; and

58 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent

59 that the claim against the insolvent insurer is not paid by a guaranty association or fund.

60 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
61 coverage for covered persons who are legally entitled to recover damages from owners or
62 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

63 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
64 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
65 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
66 under the named insured's motor vehicle policy, unless a named insured rejects or purchases
67 coverage in a lesser amount by signing an acknowledgment form that:

68 (i) is filed with the department;

69 (ii) is provided by the insurer;

70 (iii) waives the higher coverage;

71 (iv) need only state in this or similar language that uninsured motorist coverage
72 provides benefits or protection to you and other covered persons for bodily injury resulting
73 from an accident caused by the fault of another party where the other party has no liability
74 insurance; and

75 (v) discloses the additional premiums required to purchase uninsured motorist
76 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
77 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
78 under the named insured's motor vehicle policy.

79 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
80 liability coverage until the insured requests, in writing, a change of uninsured motorist
81 coverage from that liability insurer.

82 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
83 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
84 arbitration or filed a complaint in a court of competent jurisdiction.

85 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
86 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

87 (d) For purposes of this Subsection (4), "new policy" means:

88 (i) any policy that is issued which does not include a renewal or reinstatement of an
89 existing policy; or

- 90 (ii) a change to an existing policy that results in:
- 91 (A) a named insured being added to or deleted from the policy; or
- 92 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 93 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
- 94 that increases the total number of vehicles insured by the policy, and does not include
- 95 replacement, substitute, or temporary vehicles.
- 96 (ii) The adding of an additional motor vehicle to an existing personal lines or
- 97 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).
- 98 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured
- 99 motorist coverage has been rejected, or where uninsured motorist limits are lower than the
- 100 named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
- 101 insured within 30 days that:
- 102 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
- 103 uninsured motorist coverage; and
- 104 (B) encourages the named insured to contact the insurance company or insurance
- 105 producer for quotes as to the additional premiums required to purchase uninsured motorist
- 106 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
- 107 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
- 108 under the named insured's motor vehicle policy.
- 109 (f) A change in policy number resulting from any policy change not identified under
- 110 Subsection (4)(d)(ii) does not constitute a new policy.
- 111 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
- 112 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
- 113 or filed a complaint in a court of competent jurisdiction.
- 114 (ii) The Legislature finds that the retroactive application of Subsection (4):
- 115 (A) does not enlarge, eliminate, or destroy vested rights; and
- 116 (B) clarifies legislative intent.
- 117 (h) A self-insured, including a governmental entity, may elect to provide uninsured
- 118 motorist coverage in an amount that is less than [its] the self-insured's maximum self-insured
- 119 retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy
- 120 statement from the chief financial officer or chief risk officer that declares the:

121 (i) self-insured entity's coverage level; and

122 (ii) process for filing an uninsured motorist claim.

123 (i) Uninsured motorist coverage may not be sold with limits that are less than the
124 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

125 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
126 uninsured motorist coverage until the named insured requests, in writing, different uninsured
127 motorist coverage from the insurer.

128 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
129 policies existing on that date, the insurer shall disclose in the same medium as the premium
130 renewal notice, an explanation of:

131 (A) the purpose of uninsured motorist coverage in the same manner as described in
132 Subsection (4)(a)(iv); and

133 (B) a disclosure of the additional premiums required to purchase uninsured motorist
134 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
135 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
136 under the named insured's motor vehicle policy.

137 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
138 insureds that carry uninsured motorist coverage limits in an amount less than the named
139 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage
140 limits available by the insurer under the named insured's motor vehicle policy.

141 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
142 a household constitutes notice or disclosure to all insureds within the household.

143 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
144 uninsured motorist coverage by an express writing to the insurer that provides liability
145 coverage under Subsection [31A-22-302\(1\)\(a\)](#).

146 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
147 explanation of the purpose of uninsured motorist coverage.

148 (iii) This rejection continues for that issuer of the liability coverage until the insured in
149 writing requests uninsured motorist coverage from that liability insurer.

150 (b) (i) All persons, including governmental entities, that are engaged in the business of,
151 or that accept payment for, transporting natural persons by motor vehicle, and all school

152 districts that provide transportation services for their students, shall provide coverage for all
153 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
154 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

155 (ii) This coverage is secondary to any other insurance covering an injured covered
156 person.

157 (c) Uninsured motorist coverage:

158 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
159 Compensation Act, except that the covered person is credited an amount described in
160 Subsection [34A-2-106\(5\)](#);

161 (ii) may not be subrogated by the workers' compensation insurance carrier;

162 (iii) may not be reduced by any benefits provided by workers' compensation insurance;

163 (iv) may be reduced by health insurance subrogation only after the covered person has
164 been made whole;

165 (v) may not be collected for bodily injury or death sustained by a person:

166 (A) while committing a violation of Section [41-1a-1314](#);

167 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
168 in violation of Section [41-1a-1314](#); or

169 (C) while committing a felony; and

170 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

171 (A) for a person under 18 years of age who is injured within the scope of Subsection
172 (5)(c)(v) but limited to medical and funeral expenses; or

173 (B) by a law enforcement officer as defined in Section [53-13-103](#), who is injured
174 within the course and scope of the law enforcement officer's duties.

175 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
176 Section [41-1a-102](#).

177 (6) When a covered person alleges that an uninsured motor vehicle under Subsection
178 (2)(b) proximately caused an accident without touching the covered person or the motor
179 vehicle occupied by the covered person, the covered person shall show the existence of the
180 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
181 person's testimony.

182 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor

183 vehicles may not be added together, combined, or stacked to determine the limit of insurance
184 coverage available to an injured person for any one accident.

185 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under
186 Subsection (8)(b).

187 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
188 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
189 person is the named insured or an insured family member.

190 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered
191 person is occupying.

192 (iv) Neither the primary nor the secondary coverage may be set off against the other.

193 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
194 coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c)
195 shall be secondary coverage.

196 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,
197 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
198 the motor vehicle is described in the policy under which a claim is made, or if the motor
199 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
200 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a
201 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
202 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
203 under which the person is a covered person.

204 (b) Each of the following persons may also recover uninsured motorist benefits under
205 any one other policy in which they are described as a "covered person" as defined in Subsection
206 (1):

207 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

208 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying
209 or using a motor vehicle that is not owned, leased, or furnished:

210 (A) to the covered person;

211 (B) to the covered person's spouse; or

212 (C) to the covered person's resident parent or resident sibling.

213 (c) (i) A covered person may recover benefits from no more than two additional

214 policies, one additional policy from each parent's household if the covered person is:

215 (A) a dependent minor of parents who reside in separate households; and

216 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
217 furnished:

218 (I) to the covered person;

219 (II) to the covered person's resident parent; or

220 (III) to the covered person's resident sibling.

221 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
222 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
223 bears to the total of both parents' uninsured coverage applicable to the accident.

224 (d) A covered person's recovery under any available policies may not exceed the full
225 amount of damages.

226 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
227 elections if recovery is unavailable under previous elections.

228 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
229 single incident of loss under more than one insurance policy.

230 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
231 interpolicy stacking is prohibited for uninsured motorist coverage.

232 (9) (a) When a claim is brought by a named insured or a person described in
233 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
234 claimant may elect to resolve the claim:

235 (i) by submitting the claim to binding arbitration; or

236 (ii) through litigation.

237 (b) Unless otherwise provided in the policy under which uninsured benefits are
238 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that
239 if the policy under which insured benefits are claimed provides that either an insured or the
240 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
241 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

242 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
243 the claimant may not elect to resolve the claim through binding arbitration under this section
244 without the written consent of the uninsured motorist carrier.

245 (d) For purposes of the statute of limitations applicable to a claim described in
246 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
247 claim is considered filed when the claimant submits the claim to binding arbitration in
248 accordance with this Subsection (9).

249 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
250 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

251 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

252 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
253 (9)(e)(ii), the parties shall select a panel of three arbitrators.

254 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

255 (i) each side shall select one arbitrator; and

256 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
257 arbitrator to be included in the panel.

258 (g) Unless otherwise agreed to in writing:

259 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
260 under Subsection (9)(e)(i); or

261 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

262 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

263 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
264 under Subsection (9)(f)(ii).

265 (h) Except as otherwise provided in this section or unless otherwise agreed to in
266 writing by the parties, an arbitration proceeding conducted under this section shall be governed
267 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

268 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
269 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
270 Subsections (10)(a) through (c) are satisfied.

271 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
272 shall be determined based on the claimant's specific monetary amount in the written demand
273 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

274 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
275 arbitration claims under this part.

276 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

277 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
278 shall constitute a final decision.

279 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may
280 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,
281 including applicable uninsured motorist umbrella policies.

282 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
283 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount
284 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist
285 policies.

286 (m) The arbitrator or arbitration panel may not decide the issues of coverage or
287 extra-contractual damages, including:

288 (i) whether the claimant is a covered person;

289 (ii) whether the policy extends coverage to the loss; or

290 (iii) any allegations or claims asserting consequential damages or bad faith liability.

291 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
292 class-representative basis.

293 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
294 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
295 and costs against the party that failed to bring, pursue, or defend the claim in good faith.

296 (p) An arbitration award issued under this section shall be the final resolution of all
297 claims not excluded by Subsection (9)(m) between the parties unless:

298 (i) the award was procured by corruption, fraud, or other undue means;

299 (ii) either party, within 20 days after service of the arbitration award:

300 (A) files a complaint requesting a trial de novo in the district court; and

301 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
302 under Subsection (9)(p)(ii)(A).

303 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
304 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
305 of Evidence in the district court.

306 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may

307 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

308 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
309 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
310 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

311 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
312 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration
313 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

314 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
315 shall include:

316 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

317 (B) the costs of expert witnesses and depositions.

318 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
319 Subsection (10)(~~h~~)(i)(iii) applies.

320 (s) For purposes of determining whether a party's verdict is greater or less than the
321 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief
322 granted on a claim for damages if the claim for damages:

323 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

324 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
325 Procedure.

326 (t) If a district court determines, upon a motion of the nonmoving party, that the
327 moving party's use of the trial de novo process was filed in bad faith in accordance with
328 Section [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving
329 party.

330 (u) Nothing in this section is intended to limit any claim under any other portion of an
331 applicable insurance policy.

332 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
333 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist
334 carriers.

335 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured
336 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
337 the uninsured motorist carrier:

338 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

339 (A) subject to Subsection (10)(~~+~~)(m), the specific monetary amount of the demand,
340 including a computation of the covered person's claimed past medical expenses, claimed past
341 lost wages, and the other claimed past economic damages; and

342 (B) the factual and legal basis and any supporting documentation for the demand;

343 (ii) a written statement under oath disclosing:

344 (A) (I) the names and last known addresses of all health care providers who have
345 rendered health care services to the covered person that are material to the claims for which
346 uninsured motorist benefits are sought for a period of five years preceding the date of the event
347 giving rise to the claim for uninsured motorist benefits up to the time the election for
348 arbitration or litigation has been exercised; and

349 (II) the names and last known addresses of the health care providers who have rendered
350 health care services to the covered person, which the covered person claims are immaterial to
351 the claims for which uninsured motorist benefits are sought, for a period of five years
352 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
353 time the election for arbitration or litigation has been exercised that have not been disclosed
354 under Subsection (10)(a)(ii)(A)(I);

355 (B) (I) the names and last known addresses of all health insurers or other entities to
356 whom the covered person has submitted claims for health care services or benefits material to
357 the claims for which uninsured motorist benefits are sought, for a period of five years
358 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
359 time the election for arbitration or litigation has been exercised; and

360 (II) the names and last known addresses of the health insurers or other entities to whom
361 the covered person has submitted claims for health care services or benefits, which the covered
362 person claims are immaterial to the claims for which uninsured motorist benefits are sought,
363 for a period of five years preceding the date of the event giving rise to the claim for uninsured
364 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

365 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
366 employers of the covered person for a period of five years preceding the date of the event
367 giving rise to the claim for uninsured motorist benefits up to the time the election for
368 arbitration or litigation has been exercised;

369 (D) other documents to reasonably support the claims being asserted; and

370 (E) all state and federal statutory lienholders including a statement as to whether the
371 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
372 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,
373 or if the claim is subject to any other state or federal statutory liens; and

374 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records
375 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),
376 (B)(I), and (C).

377 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
378 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably
379 necessary, the uninsured motorist carrier may:

380 (A) make a request for the disclosure of the identity of the health care providers or
381 health care insurers; and

382 (B) make a request for authorizations to allow the uninsured motorist carrier to only
383 obtain records and billings from the individuals or entities not disclosed.

384 (ii) If the covered person does not provide the requested information within 10 days:

385 (A) the covered person shall disclose, in writing, the legal or factual basis for the
386 failure to disclose the health care providers or health care insurers; and

387 (B) either the covered person or the uninsured motorist carrier may request the
388 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
389 provided if the covered person has elected arbitration.

390 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of
391 the dispute concerning the disclosure and production of records of the health care providers or
392 health care insurers.

393 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
394 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
395 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
396 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

397 (A) provide a written response to the written demand for payment provided for in
398 Subsection (10)(a)(i);

399 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the

400 uninsured motorist carrier's determination of the amount owed to the covered person; and

401 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
402 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's
403 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,
404 tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed
405 to the covered person less:

406 (I) if the amount of the state or federal statutory lien is established, the amount of the
407 lien; or

408 (II) if the amount of the state or federal statutory lien is not established, two times the
409 amount of the medical expenses subject to the state or federal statutory lien until such time as
410 the amount of the state or federal statutory lien is established.

411 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)
412 is the total amount of the uninsured motorist policy limits, the tendered amount shall be
413 accepted by the covered person.

414 (d) (i) If an uninsured motorist carrier alleges that the covered person's written demand
415 for payment of uninsured motorist coverage benefits described in Subsection (10)(a)(i) is
416 deficient or missing a requirement described in Subsections (10)(a)(i) through (iii), the
417 uninsured motorist carrier shall specify with particularity each alleged deficiency in the written
418 response required under Subsection (10)(c)(i).

419 (ii) If an uninsured motorist carrier alleges a deficiency described in Subsection
420 (10)(d)(i) in the written response required under Subsection (10)(c)(i), the covered person shall
421 have a reasonable time to cure the alleged deficiency.

422 [~~(d)~~] (e) A covered person who receives a written response from an uninsured motorist
423 carrier as provided for in Subsection (10)(c)(i), may:

424 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all
425 uninsured motorist claims; or

426 (ii) elect to:

427 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
428 uninsured motorist claims; and

429 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
430 made under Subsections (9)(a), (b), and (c).

431 ~~[(e)]~~ (f) If a covered person elects to accept the amount tendered under Subsection
432 (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through
433 arbitration, litigation, or later settlement shall be reduced by any payment made by the
434 uninsured motorist carrier under Subsection (10)(c)(i).

435 ~~[(f)]~~ (g) In an arbitration proceeding on the remaining uninsured claims:

436 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
437 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

438 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits
439 provided by the policy.

440 ~~[(g)]~~ (h) If the final award obtained through arbitration or litigation is greater than the
441 average of the covered person's initial written demand for payment provided for in Subsection
442 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
443 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

444 (i) the final award obtained through arbitration or litigation, except that if the award
445 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the
446 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

447 (ii) any of the following applicable costs:

448 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

449 (B) the arbitrator or arbitration panel's fee; and

450 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
451 evidence during arbitration or litigation.

452 ~~[(h)]~~ (i) (i) The covered person shall provide an affidavit of costs within five days of an
453 arbitration award.

454 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
455 which the uninsured motorist carrier objects.

456 (B) The objection shall be resolved by the arbitrator or arbitration panel.

457 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
458 (10)~~[(g)]~~(h)(ii) may not exceed \$5,000.

459 ~~[(i)]~~ (j) (i) A covered person shall disclose all material information, other than rebuttal
460 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist
461 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

462 (ii) If the information under Subsection (10)~~(f)~~(j)(i) is not disclosed, the covered
463 person may not recover costs or any amounts in excess of the policy under Subsection
464 (10)~~(g)~~(h).

465 ~~(j)~~ (k) This Subsection (10) does not limit any other cause of action that arose or may
466 arise against the uninsured motorist carrier from the same dispute.

467 ~~(k)~~ (l) The provisions of this Subsection (10) only apply to motor vehicle accidents
468 that occur on or after March 30, 2010.

469 ~~(l)~~ (m) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not
470 affect the covered person's requirement to provide a computation of any other economic
471 damages claimed, and the one or more respondents shall have a reasonable time after the
472 receipt of the computation of any other economic damages claimed to conduct fact and expert
473 discovery as to any additional damages claimed. The changes made by Laws of Utah 2014,
474 Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)~~(l)~~(m) and
475 Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation
476 on or after May 13, 2014.

477 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
478 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
479 binding arbitration or through litigation on or after May 13, 2014.

480 (11) (a) Notwithstanding Section [31A-21-313](#), an action on a written policy or contract
481 for uninsured motorist coverage shall be commenced within four years after the inception of
482 loss.

483 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by
484 Subsection [31A-21-313](#)(1)(a) as of May 14, 2019.

485 Section 2. Section [31A-22-305.3](#) is amended to read:

486 **[31A-22-305.3](#). Underinsured motorist coverage.**

487 (1) As used in this section:

488 (a) "Covered person" has the same meaning as defined in Section [31A-22-305](#).

489 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
490 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
491 occurrence, but which has insufficient liability coverage to compensate fully the injured party
492 for all special and general damages.

- 493 (ii) The term "underinsured motor vehicle" does not include:
- 494 (A) a motor vehicle that is covered under the liability coverage of the same policy that
495 also contains the underinsured motorist coverage;
- 496 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2);
- 497 (C) a motor vehicle owned or leased by:
- 498 (I) a named insured;
- 499 (II) a named insured's spouse; or
- 500 (III) a dependent of a named insured.
- 501 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
502 coverage for a covered person who is legally entitled to recover damages from an owner or
503 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.
- 504 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished
505 to the covered person, the covered person's spouse, or covered person's resident relative may
506 recover underinsured benefits only if the motor vehicle is:
- 507 (i) described in the policy under which a claim is made; or
- 508 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
509 policy.
- 510 (3) (a) For purposes of this Subsection (3), "new policy" means:
- 511 (i) any policy that is issued that does not include a renewal or reinstatement of an
512 existing policy; or
- 513 (ii) a change to an existing policy that results in:
- 514 (A) a named insured being added to or deleted from the policy; or
- 515 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 516 (b) For new policies written on or after January 1, 2001, the limits of underinsured
517 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
518 liability coverage or the maximum underinsured motorist coverage limits available by the
519 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
520 purchases coverage in a lesser amount by signing an acknowledgment form that:
- 521 (i) is filed with the department;
- 522 (ii) is provided by the insurer;
- 523 (iii) waives the higher coverage;

524 (iv) need only state in this or similar language that "underinsured motorist coverage
525 provides benefits or protection to you and other covered persons for bodily injury resulting
526 from an accident caused by the fault of another party where the other party has insufficient
527 liability insurance"; and

528 (v) discloses the additional premiums required to purchase underinsured motorist
529 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
530 liability coverage or the maximum underinsured motorist coverage limits available by the
531 insurer under the named insured's motor vehicle policy.

532 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
533 liability coverage until the insured requests, in writing, a change of underinsured motorist
534 coverage from that liability insurer.

535 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after
536 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
537 arbitration or filed a complaint in a court of competent jurisdiction.

538 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
539 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

540 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
541 that increases the total number of vehicles insured by the policy, and does not include
542 replacement, substitute, or temporary vehicles.

543 (ii) The adding of an additional motor vehicle to an existing personal lines or
544 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

545 (iii) If an additional motor vehicle is added to a personal lines policy where
546 underinsured motorist coverage has been rejected, or where underinsured motorist limits are
547 lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice
548 to a named insured within 30 days that:

549 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
550 underinsured motorist coverage; and

551 (B) encourages the named insured to contact the insurance company or insurance
552 producer for quotes as to the additional premiums required to purchase underinsured motorist
553 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
554 liability coverage or the maximum underinsured motorist coverage limits available by the

555 insurer under the named insured's motor vehicle policy.

556 (f) A change in policy number resulting from any policy change not identified under
557 Subsection (3)(a)(ii) does not constitute a new policy.

558 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
559 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
560 filed a complaint in a court of competent jurisdiction.

561 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):

562 (A) does not enlarge, eliminate, or destroy vested rights; and

563 (B) clarifies legislative intent.

564 (h) A self-insured, including a governmental entity, may elect to provide underinsured
565 motorist coverage in an amount that is less than [its] the self-insured's maximum self-insured
566 retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy
567 statement from the chief financial officer or chief risk officer that declares the:

568 (i) self-insured entity's coverage level; and

569 (ii) process for filing an underinsured motorist claim.

570 (i) Underinsured motorist coverage may not be sold with limits that are less than:

571 (i) \$10,000 for one person in any one accident; and

572 (ii) at least \$20,000 for two or more persons in any one accident.

573 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
574 underinsured motorist coverage until the named insured, in writing, requests different
575 underinsured motorist coverage from the insurer.

576 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection
577 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor
578 vehicle, as described in Subsection (1).

579 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
580 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
581 or stacked upon the liability coverage of the owner or operator of the underinsured motor
582 vehicle to determine the limit of coverage available to the injured person.

583 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
584 policies existing on that date, the insurer shall disclose in the same medium as the premium
585 renewal notice, an explanation of:

586 (A) the purpose of underinsured motorist coverage in the same manner as described in
587 Subsection (3)(b)(iv); and

588 (B) a disclosure of the additional premiums required to purchase underinsured motorist
589 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
590 liability coverage or the maximum underinsured motorist coverage limits available by the
591 insurer under the named insured's motor vehicle policy.

592 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
593 insureds that carry underinsured motorist coverage limits in an amount less than the named
594 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
595 limits available by the insurer under the named insured's motor vehicle policy.

596 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured
597 in a household constitutes notice or disclosure to all insureds within the household.

598 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
599 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
600 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

601 (ii) The limit of liability for underinsured motorist coverage for two or more motor
602 vehicles may not be added together, combined, or stacked to determine the limit of insurance
603 coverage available to an injured person for any one accident.

604 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
605 under Subsections (4)(b)(i) and (ii).

606 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may
607 recover underinsured motorist benefits under any one other policy in which they are described
608 as a covered person.

609 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
610 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
611 covered person, the covered person's spouse, or the covered person's resident parent or resident
612 sibling, may also recover benefits under any one other policy under which the covered person is
613 also a covered person.

614 (iii) (A) A covered person may recover benefits from no more than two additional
615 policies, one additional policy from each parent's household if the covered person is:

616 (I) a dependent minor of parents who reside in separate households; and

617 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
618 furnished to the covered person, the covered person's resident parent, or the covered person's
619 resident sibling.

620 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
621 percentage of the damages that the limit of liability of each parent's policy of underinsured
622 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
623 accident.

624 (iv) A covered person's recovery under any available policies may not exceed the full
625 amount of damages.

626 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
627 primary coverage, and the coverage elected by a person described under Subsections
628 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

629 (vi) The primary and the secondary coverage may not be set off against the other.

630 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
631 highest limits of underinsured motorist coverage under only one additional policy per
632 household applicable to that covered person as a named insured, spouse, or relative.

633 (viii) A covered injured person is not barred against making subsequent elections if
634 recovery is unavailable under previous elections.

635 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
636 single incident of loss under more than one insurance policy.

637 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
638 prohibited for underinsured motorist coverage.

639 (c) Underinsured motorist coverage:

640 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
641 Compensation Act, except that the covered person is credited an amount described in
642 Subsection [34A-2-106](#)(5);

643 (ii) may not be subrogated by a workers' compensation insurance carrier;

644 (iii) may not be reduced by benefits provided by workers' compensation insurance;

645 (iv) may be reduced by health insurance subrogation only after the covered person is
646 made whole;

647 (v) may not be collected for bodily injury or death sustained by a person:

648 (A) while committing a violation of Section 41-1a-1314;
649 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
650 in violation of Section 41-1a-1314; or
651 (C) while committing a felony; and
652 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
653 (A) for a person under 18 years of age who is injured within the scope of Subsection
654 (4)(c)(v), but is limited to medical and funeral expenses; or
655 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
656 within the course and scope of the law enforcement officer's duties.
657 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured
658 motorist claims occurs upon the date of the last liability policy payment.
659 (6) An underinsured motorist insurer does not have a right of reimbursement against a
660 person liable for the damages resulting from an injury-causing occurrence if the person's
661 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.
662 (7) Except as otherwise provided in this section, a covered person may seek, subject to
663 the terms and conditions of the policy, additional coverage under any policy:
664 (a) that provides coverage for damages resulting from motor vehicle accidents; and
665 (b) that is not required to conform to Section 31A-22-302.
666 (8) (a) When a claim is brought by a named insured or a person described in
667 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
668 carrier, the claimant may elect to resolve the claim:
669 (i) by submitting the claim to binding arbitration; or
670 (ii) through litigation.
671 (b) Unless otherwise provided in the policy under which underinsured benefits are
672 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
673 if the policy under which insured benefits are claimed provides that either an insured or the
674 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
675 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).
676 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
677 claimant may not elect to resolve the claim through binding arbitration under this section
678 without the written consent of the underinsured motorist coverage carrier.

679 (d) For purposes of the statute of limitations applicable to a claim described in
680 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
681 claim is considered filed when the claimant submits the claim to binding arbitration in
682 accordance with this Subsection (8).

683 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
684 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

685 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

686 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
687 (8)(e)(ii), the parties shall select a panel of three arbitrators.

688 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

689 (i) each side shall select one arbitrator; and

690 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
691 arbitrator to be included in the panel.

692 (g) Unless otherwise agreed to in writing:

693 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
694 under Subsection (8)(e)(i); or

695 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

696 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

697 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
698 under Subsection (8)(f)(ii).

699 (h) Except as otherwise provided in this section or unless otherwise agreed to in
700 writing by the parties, an arbitration proceeding conducted under this section is governed by
701 Title 78B, Chapter 11, Utah Uniform Arbitration Act.

702 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
703 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
704 Subsections (9)(a) through (c) are satisfied.

705 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
706 shall be determined based on the claimant's specific monetary amount in the written demand
707 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

708 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
709 arbitration claims under this part.

710 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

711 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
712 constitutes a final decision.

713 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
714 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
715 including applicable underinsured motorist umbrella policies.

716 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
717 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
718 equal to the combined underinsured motorist policy limits of all applicable underinsured
719 motorist policies.

720 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
721 extra-contractual damages, including:

722 (i) whether the claimant is a covered person;

723 (ii) whether the policy extends coverage to the loss; or

724 (iii) an allegation or claim asserting consequential damages or bad faith liability.

725 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
726 class-representative basis.

727 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
728 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
729 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

730 (p) An arbitration award issued under this section shall be the final resolution of all
731 claims not excluded by Subsection (8)(m) between the parties unless:

732 (i) the award is procured by corruption, fraud, or other undue means;

733 (ii) either party, within 20 days after service of the arbitration award:

734 (A) files a complaint requesting a trial de novo in the district court; and

735 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
736 under Subsection (8)(p)(ii)(A).

737 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall
738 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of
739 Evidence in the district court.

740 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may

741 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

742 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
743 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
744 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

745 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
746 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
747 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

748 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
749 shall include:

750 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

751 (B) the costs of expert witnesses and depositions.

752 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
753 Subsection (9)~~(h)~~(i)(iii) applies.

754 (s) For purposes of determining whether a party's verdict is greater or less than the
755 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief
756 granted on a claim for damages if the claim for damages:

757 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

758 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
759 Procedure.

760 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
761 party's use of the trial de novo process is filed in bad faith in accordance with Section
762 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

763 (u) Nothing in this section is intended to limit a claim under another portion of an
764 applicable insurance policy.

765 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),
766 the claimant may elect to arbitrate in one hearing the claims against all the underinsured
767 motorist carriers.

768 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured
769 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
770 the underinsured motorist carrier:

771 (i) a written demand for payment of underinsured motorist coverage benefits, setting

772 forth:

773 (A) subject to Subsection (9)~~(f)~~(m), the specific monetary amount of the demand,
774 including a computation of the covered person's claimed past medical expenses, claimed past
775 lost wages, and all other claimed past economic damages; and

776 (B) the factual and legal basis and any supporting documentation for the demand;

777 (ii) a written statement under oath disclosing:

778 (A) (I) the names and last known addresses of all health care providers who have
779 rendered health care services to the covered person that are material to the claims for which the
780 underinsured motorist benefits are sought for a period of five years preceding the date of the
781 event giving rise to the claim for underinsured motorist benefits up to the time the election for
782 arbitration or litigation has been exercised; and

783 (II) the names and last known addresses of the health care providers who have rendered
784 health care services to the covered person, which the covered person claims are immaterial to
785 the claims for which underinsured motorist benefits are sought, for a period of five years
786 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
787 the time the election for arbitration or litigation has been exercised that have not been disclosed
788 under Subsection (9)(a)(ii)(A)(I);

789 (B) (I) the names and last known addresses of all health insurers or other entities to
790 whom the covered person has submitted claims for health care services or benefits material to
791 the claims for which underinsured motorist benefits are sought, for a period of five years
792 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
793 the time the election for arbitration or litigation has been exercised; and

794 (II) the names and last known addresses of the health insurers or other entities to whom
795 the covered person has submitted claims for health care services or benefits, which the covered
796 person claims are immaterial to the claims for which underinsured motorist benefits are sought,
797 for a period of five years preceding the date of the event giving rise to the claim for
798 underinsured motorist benefits up to the time the election for arbitration or litigation have not
799 been disclosed;

800 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
801 employers of the covered person for a period of five years preceding the date of the event
802 giving rise to the claim for underinsured motorist benefits up to the time the election for

803 arbitration or litigation has been exercised;

804 (D) other documents to reasonably support the claims being asserted; and

805 (E) all state and federal statutory lienholders including a statement as to whether the
806 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
807 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,
808 or if the claim is subject to any other state or federal statutory liens; and

809 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
810 records and billings from the individuals or entities disclosed under Subsections

811 (9)(a)(ii)(A)(I), (B)(I), and (C).

812 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed
813 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
814 the underinsured motorist carrier may:

815 (A) make a request for the disclosure of the identity of the health care providers or
816 health care insurers; and

817 (B) make a request for authorizations to allow the underinsured motorist carrier to only
818 obtain records and billings from the individuals or entities not disclosed.

819 (ii) If the covered person does not provide the requested information within 10 days:

820 (A) the covered person shall disclose, in writing, the legal or factual basis for the
821 failure to disclose the health care providers or health care insurers; and

822 (B) either the covered person or the underinsured motorist carrier may request the
823 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
824 provided if the covered person has elected arbitration.

825 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
826 the dispute concerning the disclosure and production of records of the health care providers or
827 health care insurers.

828 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
829 notice of filing litigation and the demand for payment of underinsured motorist benefits under
830 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the
831 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

832 (A) provide a written response to the written demand for payment provided for in
833 Subsection (9)(a)(i);

834 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
835 underinsured motorist carrier's determination of the amount owed to the covered person; and

836 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
837 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's
838 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,
839 tender the amount, if any, of the underinsured motorist carrier's determination of the amount
840 owed to the covered person less:

841 (I) if the amount of the state or federal statutory lien is established, the amount of the
842 lien; or

843 (II) if the amount of the state or federal statutory lien is not established, two times the
844 amount of the medical expenses subject to the state or federal statutory lien until such time as
845 the amount of the state or federal statutory lien is established.

846 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
847 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
848 shall be accepted by the covered person.

849 (d) (i) If an underinsured motorist carrier alleges that the covered person's written
850 demand for payment of underinsured motorist coverage benefits described in Subsection
851 (9)(a)(i) is deficient or missing a requirement described in Subsections (9)(a)(i) through (iii),
852 the underinsured motorist carrier shall specify with particularity each alleged deficiency in the
853 written response required under Subsection (9)(c)(i).

854 (ii) If an underinsured motorist carrier alleges a deficiency described in Subsection
855 (9)(d)(i) in the written response required under Subsection (9)(c)(i), the covered person shall
856 have a reasonable time to cure the alleged deficiency.

857 [~~(d)~~] (e) A covered person who receives a written response from an underinsured
858 motorist carrier as provided for in Subsection (9)(c)(i), may:

859 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
860 underinsured motorist claims; or

861 (ii) elect to:

862 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
863 underinsured motorist claims; and

864 (B) continue to litigate or arbitrate the remaining claim in accordance with the election

865 made under Subsections (8)(a), (b), and (c).

866 ~~[(e)]~~ (f) If a covered person elects to accept the amount tendered under Subsection
867 (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained
868 through arbitration, litigation, or later settlement shall be reduced by any payment made by the
869 underinsured motorist carrier under Subsection (9)(c)(i).

870 ~~[(f)]~~ (g) In an arbitration proceeding on the remaining underinsured claims:

871 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
872 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

873 (ii) the parties may not disclose the amount of the limits of underinsured motorist
874 benefits provided by the policy.

875 ~~[(g)]~~ (h) If the final award obtained through arbitration or litigation is greater than the
876 average of the covered person's initial written demand for payment provided for in Subsection
877 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
878 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

879 (i) the final award obtained through arbitration or litigation, except that if the award
880 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
881 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

882 (ii) any of the following applicable costs:

883 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

884 (B) the arbitrator or arbitration panel's fee; and

885 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
886 evidence during arbitration or litigation.

887 ~~[(h)]~~ (i) (i) The covered person shall provide an affidavit of costs within five days of an
888 arbitration award.

889 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
890 which the underinsured motorist carrier objects.

891 (B) The objection shall be resolved by the arbitrator or arbitration panel.

892 (iii) The award of costs by the arbitrator or arbitration panel under Subsection

893 (9)~~[(g)]~~~~[(h)]~~(ii) may not exceed \$5,000.

894 ~~[(i)]~~ (j) (i) A covered person shall disclose all material information, other than rebuttal
895 evidence, within 30 days after a covered person elects to submit a claim for underinsured

896 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
897 (9)(a).

898 (ii) If the information under Subsection (9)~~(j)~~(i) is not disclosed, the covered
899 person may not recover costs or any amounts in excess of the policy under Subsection
900 (9)~~(g)~~(h).

901 ~~(j)~~ (k) This Subsection (9) does not limit any other cause of action that arose or may
902 arise against the underinsured motorist carrier from the same dispute.

903 ~~(k)~~ (l) The provisions of this Subsection (9) only apply to motor vehicle accidents
904 that occur on or after March 30, 2010.

905 ~~(l)~~ (m) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect
906 the covered person's requirement to provide a computation of any other economic damages
907 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
908 computation of any other economic damages claimed to conduct fact and expert discovery as to
909 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
910 Section 11, and Chapter 300, Section 11, to this Subsection (9)~~(l)~~(m) and Subsection
911 (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after
912 May 13, 2014.

913 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
914 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
915 binding arbitration or through litigation on or after May 13, 2014.