

Representative Kelly B. Miles proposes the following substitute bill:

UNINSURED MOTORIST AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kelly B. Miles

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This bill specifies the statute of limitations for an action under a contract for uninsured motorist coverage.

Highlighted Provisions:

This bill:

► specifies the statute of limitations for an action under a contract for uninsured motorist coverage.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2018, Chapter 434

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

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

31A-22-305. Uninsured motorist coverage.



- 26 (1) As used in this section, "covered persons" includes:
- 27 (a) the named insured;
- 28 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
- 29 children;
- 30 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
- 31 who are residents of the named insured's household, including those who usually make their
- 32 home in the same household but temporarily live elsewhere;
- 33 (d) any person occupying or using a motor vehicle:
- 34 (i) referred to in the policy; or
- 35 (ii) owned by a self-insured; and
- 36 (e) any person who is entitled to recover damages against the owner or operator of the
- 37 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
- 38 Subsection (1)(a), (b), (c), or (d).
- 39 (2) As used in this section, "uninsured motor vehicle" includes:
- 40 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
- 41 under a liability policy at the time of an injury-causing occurrence; or
- 42 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
- 43 [31A-22-304](#); and
- 44 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
- 45 the deficiency;
- 46 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
- 47 by the motor vehicle operator;
- 48 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
- 49 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
- 50 60 days; or
- 51 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
- 52 the motor vehicle is declared insolvent by a court of competent jurisdiction; and
- 53 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
- 54 that the claim against the insolvent insurer is not paid by a guaranty association or fund.
- 55 (3) Uninsured motorist coverage under Subsection [31A-22-302\(1\)\(b\)](#) provides
- 56 coverage for covered persons who are legally entitled to recover damages from owners or

57 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

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

63 (i) is filed with the department;

64 (ii) is provided by the insurer;

65 (iii) waives the higher coverage;

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

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

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

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

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

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

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

85 (ii) a change to an existing policy that results in:

86 (A) a named insured being added to or deleted from the policy; or

87 (B) a change in the limits of the named insured's motor vehicle liability coverage.

88 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
89 that increases the total number of vehicles insured by the policy, and does not include
90 replacement, substitute, or temporary vehicles.

91 (ii) The adding of an additional motor vehicle to an existing personal lines or
92 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

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

97 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
98 uninsured motorist coverage; and

99 (B) encourages the named insured to contact the insurance company or insurance
100 producer for quotes as to the additional premiums required to purchase uninsured motorist
101 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
102 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
103 under the named insured's motor vehicle policy.

104 (f) A change in policy number resulting from any policy change not identified under
105 Subsection (4)(d)(ii) does not constitute a new policy.

106 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
107 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
108 or filed a complaint in a court of competent jurisdiction.

109 (ii) The Legislature finds that the retroactive application of Subsection (4):

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

111 (B) clarifies legislative intent.

112 (h) A self-insured, including a governmental entity, may elect to provide uninsured
113 motorist coverage in an amount that is less than its maximum self-insured retention under
114 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from
115 the chief financial officer or chief risk officer that declares the:

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

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

118 (i) Uninsured motorist coverage may not be sold with limits that are less than the

119 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

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

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

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

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

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

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

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

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

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

145 (b) (i) All persons, including governmental entities, that are engaged in the business of,
146 or that accept payment for, transporting natural persons by motor vehicle, and all school
147 districts that provide transportation services for their students, shall provide coverage for all
148 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
149 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

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

152 (c) Uninsured motorist coverage:

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

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

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

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

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

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

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

164 (C) while committing a felony; and

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

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

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

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

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

177 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
178 vehicles may not be added together, combined, or stacked to determine the limit of insurance
179 coverage available to an injured person for any one accident.

180 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under

181 Subsection (8)(b)(ii).

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

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

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

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

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

199 (b) Each of the following persons may also recover uninsured motorist benefits under
200 any one other policy in which they are described as a "covered person" as defined in Subsection
201 (1):

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

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

205 (A) to the covered person;

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

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

208 (c) (i) A covered person may recover benefits from no more than two additional
209 policies, one additional policy from each parent's household if the covered person is:

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

211 (B) injured while occupying or using a motor vehicle that is not owned, leased, or

212 furnished:

213 (I) to the covered person;

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

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

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

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

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

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

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

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

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

231 (ii) through litigation.

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

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

240 (d) For purposes of the statute of limitations applicable to a claim described in
241 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
242 claim is considered filed when the claimant submits the claim to binding arbitration in

243 accordance with this Subsection (9).

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

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

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

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

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

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

253 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

263 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
264 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
265 Subsections (10)(a) through (c) are satisfied.

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

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

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

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

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

277 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
278 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount
279 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist
280 policies.

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

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

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

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

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

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

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

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

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

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

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

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

301 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
302 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

303 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
304 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the

305 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

334 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,

335 including a computation of the covered person's claimed past medical expenses, claimed past

336 lost wages, and the other claimed past economic damages; and

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

338 (ii) a written statement under oath disclosing:

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

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

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

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

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

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

365 (E) all state and federal statutory lienholders including a statement as to whether the
366 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health

367 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,
368 or if the claim is subject to any other state or federal statutory liens; and

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

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

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

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

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

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

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

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

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

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

394 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the
395 uninsured motorist carrier's determination of the amount owed to the covered person; and

396 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
397 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's

398 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,
399 tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed
400 to the covered person less:

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

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

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

409 (d) A covered person who receives a written response from an uninsured motorist
410 carrier as provided for in Subsection (10)(c)(i), may:

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

413 (ii) elect to:

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

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

418 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
419 as partial payment of all uninsured motorist claims, the final award obtained through
420 arbitration, litigation, or later settlement shall be reduced by any payment made by the
421 uninsured motorist carrier under Subsection (10)(c)(i).

422 (f) In an arbitration proceeding on the remaining uninsured claims:

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

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

427 (g) If the final award obtained through arbitration or litigation is greater than the
428 average of the covered person's initial written demand for payment provided for in Subsection

429 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
430 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

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

434 (ii) any of the following applicable costs:

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

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

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

439 (h) (i) The covered person shall provide an affidavit of costs within five days of an
440 arbitration award.

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

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

444 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
445 (10)(g)(ii) may not exceed \$5,000.

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

449 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
450 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

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

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

455 (l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the
456 covered person's requirement to provide a computation of any other economic damages
457 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
458 computation of any other economic damages claimed to conduct fact and expert discovery as to
459 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,

460 Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection
461 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after
462 May 13, 2014.

463 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
464 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
465 binding arbitration or through litigation on or after May 13, 2014.

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

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