

1 **UNINSURED AND UNDERINSURED MOTORIST INSURANCE**

2 **AMENDMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to uninsured and underinsured motorist insurance
11 coverage.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ addresses when the limit of liability for uninsured or underinsured motorist
15 coverage for two or more motor vehicles may be added together, combined, or
16 stacked to determine the limit of insurance coverage available to an injured person
17 for any one accident;
- 18 ▶ allows a covered person injured as a pedestrian by an underinsured motor vehicle to
19 recover underinsured motorist benefits under any one other policy under which the
20 person is covered; and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **31A-22-305**, as last amended by Laws of Utah 2019, Chapter 131

29 **31A-22-305.3**, as last amended by Laws of Utah 2018, Chapter 434

30

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

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

33 **31A-22-305. Uninsured motorist coverage.**

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

35 (a) the named insured;

36 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
37 children;38 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
39 who are residents of the named insured's household, including those who usually make their
40 home in the same household but temporarily live elsewhere;

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

42 (i) referred to in the policy; or

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

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

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

48 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
49 under a liability policy at the time of an injury-causing occurrence; or50 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
51 31A-22-304; and52 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
53 the deficiency;54 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
55 by the motor vehicle operator;56 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
57 disputed by the liability insurer for more than 60 days or continues to be disputed for more than

58 60 days; or

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

61 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
62 that the claim against the insolvent insurer is not paid by a guaranty association or fund.

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

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

71 (i) is filed with the department;

72 (ii) is provided by the insurer;

73 (iii) waives the higher coverage;

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

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

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

85 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after

86 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
87 arbitration or filed a complaint in a court of competent jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

114 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
115 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
116 or filed a complaint in a court of competent jurisdiction.

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

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

119 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

140 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
141 insureds that carry uninsured motorist coverage limits in an amount less than the named

142 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage
143 limits available by the insurer under the named insured's motor vehicle policy.

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

146 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
147 uninsured motorist coverage by an express writing to the insurer that provides liability
148 coverage under Subsection 31A-22-302(1)(a).

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

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

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

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

160 (c) Uninsured motorist coverage:

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

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

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

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

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

169 (A) while committing a violation of Section 41-1a-1314;

170 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
171 in violation of Section 41-1a-1314; or

172 (C) while committing a felony; and

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

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

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

178 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
179 Section 41-1a-102.

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

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

188 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under
189 Subsection (8)(b)[(ii)].

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

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

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

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

198 shall be secondary coverage.

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

207 (b) Each of the following persons may also recover uninsured motorist benefits under
208 any one other policy in which they are described as a "covered person" as defined in Subsection
209 (1):

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

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

213 (A) to the covered person;

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

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

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

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

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

221 (I) to the covered person;

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

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

224 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
225 the damages that the limit of liability of each parent's policy of uninsured motorist coverage

226 bears to the total of both parents' uninsured coverage applicable to the accident.

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

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

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

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

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

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

239 (ii) through litigation.

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

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

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

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

254 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).
255 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
256 (9)(e)(ii), the parties shall select a panel of three arbitrators.
257 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):
258 (i) each side shall select one arbitrator; and
259 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
260 arbitrator to be included in the panel.
261 (g) Unless otherwise agreed to in writing:
262 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
263 under Subsection (9)(e)(i); or
264 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):
265 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
266 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
267 under Subsection (9)(f)(ii).
268 (h) Except as otherwise provided in this section or unless otherwise agreed to in
269 writing by the parties, an arbitration proceeding conducted under this section shall be governed
270 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
271 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
272 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
273 Subsections (10)(a) through (c) are satisfied.
274 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
275 shall be determined based on the claimant's specific monetary amount in the written demand
276 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).
277 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
278 arbitration claims under this part.
279 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
280 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
281 shall constitute a final decision.

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

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

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

- 291 (i) whether the claimant is a covered person;
- 292 (ii) whether the policy extends coverage to the loss; or
- 293 (iii) any allegations or claims asserting consequential damages or bad faith liability.

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

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

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

- 301 (i) the award was procured by corruption, fraud, or other undue means;
 - 302 (ii) either party, within 20 days after service of the arbitration award:
 - 303 (A) files a complaint requesting a trial de novo in the district court; and
 - 304 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
- 305 under Subsection (9)(p)(ii)(A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

342 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,
343 including a computation of the covered person's claimed past medical expenses, claimed past
344 lost wages, and the other claimed past economic damages; and

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

346 (ii) a written statement under oath disclosing:

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

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

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

363 (II) the names and last known addresses of the health insurers or other entities to whom
364 the covered person has submitted claims for health care services or benefits, which the covered
365 person claims are immaterial to the claims for which uninsured motorist benefits are sought,

366 for a period of five years preceding the date of the event giving rise to the claim for uninsured
367 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

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

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

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

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

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

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

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

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

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

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

393 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of

394 the dispute concerning the disclosure and production of records of the health care providers or
395 health care insurers.

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

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

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

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

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

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

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

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

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

421 (ii) elect to:

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

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

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

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

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

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

435 (g) If the final award obtained through arbitration or litigation is greater than the
436 average of the covered person's initial written demand for payment provided for in Subsection
437 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
438 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

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

442 (ii) any of the following applicable costs:

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

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

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

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

449 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to

450 which the uninsured motorist carrier objects.

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

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

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

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

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

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

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

471 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
472 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
473 binding arbitration or through litigation on or after May 13, 2014.

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

477 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by

478 Subsection 31A-21-313(1)(a) as of May 14, 2019.

479 Section 2. Section 31A-22-305.3 is amended to read:

480 **31A-22-305.3. Underinsured motorist coverage.**

481 (1) As used in this section:

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

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

487 (ii) The term "underinsured motor vehicle" does not include:

488 (A) a motor vehicle that is covered under the liability coverage of the same policy that
489 also contains the underinsured motorist coverage;

490 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2);

491 (C) a motor vehicle owned or leased by:

492 (I) a named insured;

493 (II) a named insured's spouse; or

494 (III) a dependent of a named insured.

495 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
496 coverage for a covered person who is legally entitled to recover damages from an owner or
497 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

498 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished
499 to the covered person, the covered person's spouse, or covered person's resident relative may
500 recover underinsured benefits only if the motor vehicle is:

501 (i) described in the policy under which a claim is made; or

502 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
503 policy.

504 (3) (a) For purposes of this Subsection (3), "new policy" means:

505 (i) any policy that is issued that does not include a renewal or reinstatement of an

506 existing policy; or

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

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

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

510 (b) For new policies written on or after January 1, 2001, the limits of underinsured

511 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle

512 liability coverage or the maximum underinsured motorist coverage limits available by the

513 insurer under the named insured's motor vehicle policy, unless a named insured rejects or

514 purchases coverage in a lesser amount by signing an acknowledgment form that:

515 (i) is filed with the department;

516 (ii) is provided by the insurer;

517 (iii) waives the higher coverage;

518 (iv) need only state in this or similar language that "underinsured motorist coverage

519 provides benefits or protection to you and other covered persons for bodily injury resulting

520 from an accident caused by the fault of another party where the other party has insufficient

521 liability insurance"; and

522 (v) discloses the additional premiums required to purchase underinsured motorist

523 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle

524 liability coverage or the maximum underinsured motorist coverage limits available by the

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

526 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the

527 liability coverage until the insured requests, in writing, a change of underinsured motorist

528 coverage from that liability insurer.

529 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after

530 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for

531 arbitration or filed a complaint in a court of competent jurisdiction.

532 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)

533 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

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

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

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

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

545 (B) encourages the named insured to contact the insurance company or insurance
546 producer for quotes as to the additional premiums required to purchase underinsured motorist
547 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
548 liability coverage or the maximum underinsured motorist coverage limits available by the
549 insurer under the named insured's motor vehicle policy.

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

552 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
553 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
554 filed a complaint in a court of competent jurisdiction.

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

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

557 (B) clarifies legislative intent.

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

- 562 (i) self-insured entity's coverage level; and
- 563 (ii) process for filing an underinsured motorist claim.
- 564 (i) Underinsured motorist coverage may not be sold with limits that are less than:
- 565 (i) \$10,000 for one person in any one accident; and
- 566 (ii) at least \$20,000 for two or more persons in any one accident.
- 567 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
- 568 underinsured motorist coverage until the named insured, in writing, requests different
- 569 underinsured motorist coverage from the insurer.
- 570 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection
- 571 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor
- 572 vehicle, as described in Subsection (1).
- 573 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
- 574 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
- 575 or stacked upon the liability coverage of the owner or operator of the underinsured motor
- 576 vehicle to determine the limit of coverage available to the injured person.
- 577 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
- 578 policies existing on that date, the insurer shall disclose in the same medium as the premium
- 579 renewal notice, an explanation of:
- 580 (A) the purpose of underinsured motorist coverage in the same manner as described in
- 581 Subsection (3)(b)(iv); and
- 582 (B) a disclosure of the additional premiums required to purchase underinsured motorist
- 583 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
- 584 liability coverage or the maximum underinsured motorist coverage limits available by the
- 585 insurer under the named insured's motor vehicle policy.
- 586 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
- 587 insureds that carry underinsured motorist coverage limits in an amount less than the named
- 588 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
- 589 limits available by the insurer under the named insured's motor vehicle policy.

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

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

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

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

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

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

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

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

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

614 (B) Each parent's policy under this Subsection (4)(b)~~(ii)~~(iii) is liable only for the
615 percentage of the damages that the limit of liability of each parent's policy of underinsured
616 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
617 accident.

618 [~~(iii)~~] (iv) A covered person's recovery under any available policies may not exceed the
 619 full amount of damages.

620 [~~(iv)~~] (v) Underinsured coverage on a motor vehicle occupied at the time of an accident
 621 is primary coverage, and the coverage elected by a person described under Subsections
 622 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

623 [~~(v)~~] (vi) The primary and the secondary coverage may not be set off against the other.

624 [~~(vi)~~] (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
 625 highest limits of underinsured motorist coverage under only one additional policy per
 626 household applicable to that covered person as a named insured, spouse, or relative.

627 [~~(vii)~~] (viii) A covered injured person is not barred against making subsequent
 628 elections if recovery is unavailable under previous elections.

629 [~~(viii)~~] (ix) (A) As used in this section, "interpolicy stacking" means recovering
 630 benefits for a single incident of loss under more than one insurance policy.

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

633 (c) Underinsured motorist coverage:

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

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

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

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

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

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

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

645 (C) while committing a felony; and

646 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

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

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

651 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured
652 motorist claims occurs upon the date of the last liability policy payment.

653 (6) An underinsured motorist insurer does not have a right of reimbursement against a
654 person liable for the damages resulting from an injury-causing occurrence if the person's
655 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

656 (7) Except as otherwise provided in this section, a covered person may seek, subject to
657 the terms and conditions of the policy, additional coverage under any policy:

658 (a) that provides coverage for damages resulting from motor vehicle accidents; and

659 (b) that is not required to conform to Section 31A-22-302.

660 (8) (a) When a claim is brought by a named insured or a person described in
661 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
662 carrier, the claimant may elect to resolve the claim:

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

664 (ii) through litigation.

665 (b) Unless otherwise provided in the policy under which underinsured benefits are
666 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
667 if the policy under which insured benefits are claimed provides that either an insured or the
668 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
669 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

670 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
671 claimant may not elect to resolve the claim through binding arbitration under this section
672 without the written consent of the underinsured motorist coverage carrier.

673 (d) For purposes of the statute of limitations applicable to a claim described in

674 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
675 claim is considered filed when the claimant submits the claim to binding arbitration in
676 accordance with this Subsection (8).

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

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

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

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

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

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

686 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

696 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
697 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
698 Subsections (9)(a) through (c) are satisfied.

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

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

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

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

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

710 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
711 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
712 equal to the combined underinsured motorist policy limits of all applicable underinsured
713 motorist policies.

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

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

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

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

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

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

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

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

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

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

729 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo

730 under Subsection (8)(p)(ii)(A).

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

734 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
735 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

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

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

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

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

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

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

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

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

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

754 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
755 party's use of the trial de novo process is filed in bad faith in accordance with Section
756 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

757 (u) Nothing in this section is intended to limit a claim under another portion of an

758 applicable insurance policy.

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

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

765 (i) a written demand for payment of underinsured motorist coverage benefits, setting
766 forth:

767 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,
768 including a computation of the covered person's claimed past medical expenses, claimed past
769 lost wages, and all other claimed past economic damages; and

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

771 (ii) a written statement under oath disclosing:

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

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

783 (B) (I) the names and last known addresses of all health insurers or other entities to
784 whom the covered person has submitted claims for health care services or benefits material 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; and

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

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

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

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

803 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
804 records and billings from the individuals or entities disclosed under Subsections
805 (9)(a)(ii)(A)(I), (B)(I), and (C).

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

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

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

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

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

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

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

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

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

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

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

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

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

840 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
841 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount

842 shall be accepted by the covered person.

843 (d) A covered person who receives a written response from an underinsured motorist
844 carrier as provided for in Subsection (9)(c)(i), may:

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

847 (ii) elect to:

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

850 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
851 made under Subsections (8)(a), (b), and (c).

852 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
853 as partial payment of all underinsured motorist claims, the final award obtained through
854 arbitration, litigation, or later settlement shall be reduced by any payment made by the
855 underinsured motorist carrier under Subsection (9)(c)(i).

856 (f) In an arbitration proceeding on the remaining underinsured claims:

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

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

861 (g) If the final award obtained through arbitration or litigation is greater than the
862 average of the covered person's initial written demand for payment provided for in Subsection
863 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
864 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

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

868 (ii) any of the following applicable costs:

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

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

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

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

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

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

878 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
879 may not exceed \$5,000.

880 (i) (i) A covered person shall disclose all material information, other than rebuttal
881 evidence, within 30 days after a covered person elects to submit a claim for underinsured
882 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
883 (9)(a).

884 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
885 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

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

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

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

897 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter

898 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
899 binding arbitration or through litigation on or after May 13, 2014.