

MOTOR VEHICLE INSURANCE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the definition of "covered person" as related to uninsured and underinsured motorist coverage to include an individual operating a farm tractor on a highway.

Highlighted Provisions:

This bill:

▶ amends the term “covered person” as related to uninsured and underinsured motorist coverage to include an individual operating a farm tractor on a highway;

and

▶ makes technical changes.

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 2019, Chapter 131

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

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



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

29 **31A-22-305. Uninsured motorist coverage.**

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

31 (a) the named insured;

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

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

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

38 (i) referred to in the policy; or

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

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

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

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

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

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

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

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

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

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

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

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

67 (i) is filed with the department;

68 (ii) is provided by the insurer;

69 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

90 (A) a named insured being added to or deleted from the policy; or
91 (B) a change in the limits of the named insured's motor vehicle liability coverage.

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

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

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

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

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

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

110 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
111 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
112 or filed a complaint in a court of competent jurisdiction.

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

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

115 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

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

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

149 (b) (i) All persons, including governmental entities, that are engaged in the business of,
150 or that accept payment for, transporting natural persons by motor vehicle, and all school
151 districts that provide transportation services for their students, shall provide coverage for all

152 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
153 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

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

156 (c) Uninsured motorist coverage:

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

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

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

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

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

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

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

168 (C) while committing a felony; and

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

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

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

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

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

181 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
182 vehicles may not be added together, combined, or stacked to determine the limit of insurance

183 coverage available to an injured person for any one accident.

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

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

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

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

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

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

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

206 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; [~~and~~]

207 (ii) a covered person injured while operating on a highway a farm tractor as defined in
208 Section 41-1a-102; and

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

211 (A) to the covered person;

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

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

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

- 216 (A) a dependent minor of parents who reside in separate households; and
- 217 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
218 furnished:

- 219 (I) to the covered person;
- 220 (II) to the covered person's resident parent; or
- 221 (III) to the covered person's resident sibling.

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

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

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

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

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

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

- 236 (i) by submitting the claim to binding arbitration; or
- 237 (ii) through litigation.

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

243 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
244 the claimant may not elect to resolve the claim through binding arbitration under this section

245 without the written consent of the uninsured motorist carrier.

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

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

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

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

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

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

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

259 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

275 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to

276 arbitration claims under this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

338 the uninsured motorist carrier:

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

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

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

344 (ii) a written statement under oath disclosing:

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

350 (II) the names and last known addresses of the health care providers who have rendered
351 health care services to the covered person, which the covered person claims are immaterial 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 that have not been disclosed
355 under Subsection (10)(a)(ii)(A)(I);

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

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

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

369 arbitration or litigation has been exercised;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

419 (ii) elect to:

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

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

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

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

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

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

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

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

440 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

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

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

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

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

461 (l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the

462 covered person's requirement to provide a computation of any other economic damages
463 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
464 computation of any other economic damages claimed to conduct fact and expert discovery as to
465 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
466 Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection
467 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after
468 May 13, 2014.

469 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
470 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
471 binding arbitration or through litigation on or after May 13, 2014.

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

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

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

478 **31A-22-305.3. Underinsured motorist coverage.**

479 (1) As used in this section:

480 (a) "Covered person" has the same meaning as defined in Section 31A-22-305,
481 including the descriptions found in Subsection 31A-22-305(8)(b).

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

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

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

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

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

491 (I) a named insured;

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

493 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

509 (b) For new policies written on or after January 1, 2001, the limits of underinsured
510 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
511 liability coverage or the maximum underinsured motorist coverage limits available by the
512 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
513 purchases coverage in a lesser amount by signing an acknowledgment form that:

514 (i) is filed with the department;

515 (ii) is provided by the insurer;

516 (iii) waives the higher coverage;

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

521 (v) discloses the additional premiums required to purchase underinsured motorist
522 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
523 liability coverage or the maximum underinsured motorist coverage limits available by the

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

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

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

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

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

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

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

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

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

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

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

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

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

556 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

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

585 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named

586 insureds that carry underinsured motorist coverage limits in an amount less than the named
587 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
588 limits available by the insurer under the named insured's motor vehicle policy.

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

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

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

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

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

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

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

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

610 (B) Each parent's policy under this Subsection (4)(b)(ii) is liable only for the
611 percentage of the damages that the limit of liability of each parent's policy of underinsured
612 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
613 accident.

614 (iii) A covered person's recovery under any available policies may not exceed the full
615 amount of damages.

616 (iv) Underinsured coverage on a motor vehicle occupied at the time of an accident is

617 primary coverage, and the coverage elected by a person described under Subsections
618 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

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

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

623 (vii) A covered injured person is not barred against making subsequent elections if
624 recovery is unavailable under previous elections.

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

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

629 (c) Underinsured motorist coverage:

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

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

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

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

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

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

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

641 (C) while committing a felony; and

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

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

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

647 (5) The inception of the loss under Subsection [31A-21-313](#)(1) for underinsured

648 motorist claims occurs upon the date of the last liability policy payment.

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

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

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

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

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

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

660 (ii) through litigation.

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

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

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

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

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

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

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

- 679 (i) each side shall select one arbitrator; and
- 680 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
681 arbitrator to be included in the panel.
- 682 (g) Unless otherwise agreed to in writing:
- 683 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
684 under Subsection (8)(e)(i); or
- 685 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
- 686 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
- 687 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
688 under Subsection (8)(f)(ii).
- 689 (h) Except as otherwise provided in this section or unless otherwise agreed to in
690 writing by the parties, an arbitration proceeding conducted under this section is governed by
691 Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- 692 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
693 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
694 Subsections (9)(a) through (c) are satisfied.
- 695 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
696 shall be determined based on the claimant's specific monetary amount in the written demand
697 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).
- 698 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
699 arbitration claims under this part.
- 700 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.
- 701 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
702 constitutes a final decision.
- 703 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
704 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
705 including applicable underinsured motorist umbrella policies.
- 706 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
707 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
708 equal to the combined underinsured motorist policy limits of all applicable underinsured
709 motorist policies.

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

- 712 (i) whether the claimant is a covered person;
- 713 (ii) whether the policy extends coverage to the loss; or
- 714 (iii) an allegation or claim asserting consequential damages or bad faith liability.

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

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

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

- 722 (i) the award is procured by corruption, fraud, or other undue means;
 - 723 (ii) either party, within 20 days after service of the arbitration award:
 - 724 (A) files a complaint requesting a trial de novo in the district court; and
 - 725 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
- 726 under Subsection (8)(p)(ii)(A).

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

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

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

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

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

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

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

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

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

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

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

750 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
751 party's use of the trial de novo process is filed in bad faith in accordance with Section
752 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

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

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

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

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

767 (ii) a written statement under oath disclosing:

768 (A) (I) the names and last known addresses of all health care providers who have
769 rendered health care services to the covered person that are material to the claims for which the
770 underinsured motorist benefits are sought for a period of five years preceding the date of the
771 event giving rise to the claim for underinsured motorist benefits up to the time the election for

772 arbitration or litigation has been exercised; and

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

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

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

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

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

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

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

802 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed

803 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
804 the underinsured motorist carrier may:

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

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

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

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

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

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

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

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

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

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

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

833 (II) if the amount of the state or federal statutory lien is not established, two times the

834 amount of the medical expenses subject to the state or federal statutory lien until such time as
835 the amount of the state or federal statutory lien is established.

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

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

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

843 (ii) elect to:

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

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

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

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

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

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

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

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

864 (ii) any of the following applicable costs:

865 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
866 (B) the arbitrator or arbitration panel's fee; and
867 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
868 evidence during arbitration or litigation.

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

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

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

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

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

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

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

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

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

893 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
894 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
895 binding arbitration or through litigation on or after May 13, 2014.