

UNDERINSURED MOTORIST INSURANCE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to underinsured motorist insurance coverage.

Highlighted Provisions:

This bill:

- ▶ allows a covered person injured as a pedestrian by an underinsured motor vehicle to recover underinsured motorist benefits under any one other policy under which the person is covered; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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:

Section 1. Section **31A-22-305.3** is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:



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

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

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

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

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

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

38 (I) a named insured;

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

40 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

56 (b) For new policies written on or after January 1, 2001, the limits of underinsured
57 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
58 liability coverage or the maximum underinsured motorist coverage limits available by the

59 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
60 purchases coverage in a lesser amount by signing an acknowledgment form that:

61 (i) is filed with the department;

62 (ii) is provided by the insurer;

63 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

89 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of

90 underinsured motorist coverage; and

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

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

98 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
99 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
100 filed a complaint in a court of competent jurisdiction.

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

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

103 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

119 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
120 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,

121 or stacked upon the liability coverage of the owner or operator of the underinsured motor
122 vehicle to determine the limit of coverage available to the injured person.

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

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

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

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

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

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

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

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

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

149 (ii) Except as provided in Subsection (4)(b)(~~(i)~~)(iii), a covered person injured while
150 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
151 covered person, the covered person's spouse, or the covered person's resident parent or resident

152 sibling, may also recover benefits under any one other policy under which the covered person is
153 also a covered person.

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

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

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

160 (B) Each parent's policy under this Subsection (4)(b)~~[(ii)]~~(iii) is liable only for the
161 percentage of the damages that the limit of liability of each parent's policy of underinsured
162 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
163 accident.

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

166 ~~[(iv)]~~ (v) Underinsured coverage on a motor vehicle occupied at the time of an accident
167 is primary coverage, and the coverage elected by a person described under Subsections
168 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

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

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

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

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

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

179 (c) Underinsured motorist coverage:

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

- 183 (ii) may not be subrogated by a workers' compensation insurance carrier;
- 184 (iii) may not be reduced by benefits provided by workers' compensation insurance;
- 185 (iv) may be reduced by health insurance subrogation only after the covered person is
186 made whole;
- 187 (v) may not be collected for bodily injury or death sustained by a person:
- 188 (A) while committing a violation of Section 41-1a-1314;
- 189 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
190 in violation of Section 41-1a-1314; or
- 191 (C) while committing a felony; and
- 192 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
- 193 (A) for a person under 18 years of age who is injured within the scope of Subsection
194 (4)(c)(v), but is limited to medical and funeral expenses; or
- 195 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
196 within the course and scope of the law enforcement officer's duties.
- 197 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured
198 motorist claims occurs upon the date of the last liability policy payment.
- 199 (6) An underinsured motorist insurer does not have a right of reimbursement against a
200 person liable for the damages resulting from an injury-causing occurrence if the person's
201 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.
- 202 (7) Except as otherwise provided in this section, a covered person may seek, subject to
203 the terms and conditions of the policy, additional coverage under any policy:
- 204 (a) that provides coverage for damages resulting from motor vehicle accidents; and
- 205 (b) that is not required to conform to Section 31A-22-302.
- 206 (8) (a) When a claim is brought by a named insured or a person described in
207 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
208 carrier, the claimant may elect to resolve the claim:
- 209 (i) by submitting the claim to binding arbitration; or
- 210 (ii) through litigation.
- 211 (b) Unless otherwise provided in the policy under which underinsured benefits are
212 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
213 if the policy under which insured benefits are claimed provides that either an insured or the

214 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
215 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

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

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

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

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

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

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

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

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

232 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

242 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
243 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
244 Subsections (9)(a) through (c) are satisfied.

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

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

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

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

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

256 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
257 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
258 equal to the combined underinsured motorist policy limits of all applicable underinsured
259 motorist policies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

300 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
301 party's use of the trial de novo process is filed in bad faith in accordance with Section
302 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

307 motorist carriers.

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

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

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

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

317 (ii) a written statement under oath disclosing:

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

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

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

334 (II) the names and last known addresses of the health insurers or other entities to whom
335 the covered person has submitted claims for health care services or benefits, which the covered
336 person claims are immaterial to the claims for which underinsured motorist benefits are sought,
337 for a period of five years preceding the date of the event giving rise to the claim for

338 underinsured motorist benefits up to the time the election for arbitration or litigation have not
339 been disclosed;

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

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

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

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

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

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

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

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

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

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

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

368 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a

369 notice of filing litigation and the demand for payment of underinsured motorist benefits under
370 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the
371 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

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

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

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

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

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

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

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

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

393 (ii) elect to:

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

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

398 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
399 as partial payment of all underinsured motorist claims, the final award obtained through

400 arbitration, litigation, or later settlement shall be reduced by any payment made by the
401 underinsured motorist carrier under Subsection (9)(c)(i).

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

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

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

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

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

414 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

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

430 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person

431 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

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

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

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

443 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
444 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
445 binding arbitration or through litigation on or after May 13, 2014.