



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

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

32 **31A-22-305.3**, as last amended by Laws of Utah 2020, Chapter 145

33 

---

---

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

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

36 **31A-22-305. Uninsured motorist coverage.**

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

38 (a) the named insured;

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

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

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

45 (i) referred to in the policy; or

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

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

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

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

53 (ii) (A) a motor vehicle covered with lower liability limits than required by Section  
54 **31A-22-304**; and

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

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

59 (c) a motor vehicle covered by a liability policy, but coverage for an accident is  
60 disputed by the liability insurer for more than 60 days or continues to be disputed for more than  
61 60 days; or

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

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

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

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

74 (i) is filed with the department;

75 (ii) is provided by the insurer;

76 (iii) waives the higher coverage;

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

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

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

88 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after  
89 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for

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

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

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

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

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

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

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

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

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

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

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

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

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

117 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,  
118 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration  
119 or filed a complaint in a court of competent jurisdiction.

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

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

122 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

163 (c) Uninsured motorist coverage:

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

167 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'  
168 compensation insurance, uninsured employer, the Uninsured Employers Fund created in  
169 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

170 (iii) may not be reduced by any benefits provided by workers' compensation insurance,  
171 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the  
172 Employers' Reinsurance Fund created in Section [34A-2-702](#);

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

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

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

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

179 (C) while committing a felony; and

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

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

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

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

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

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

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

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

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

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

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

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

214 (b) Each of the following persons may also recover uninsured motorist benefits under  
215 any one other policy in which they are described as a "covered person" as defined in Subsection  
216 (1):

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

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

220 (A) to the covered person;

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

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

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

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

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

228 (I) to the covered person;

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

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

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

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

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

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

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

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



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

246 (ii) through litigation.

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

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

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

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

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

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

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

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

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

268 (g) Unless otherwise agreed to in writing:

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

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

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

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

275 (h) Except as otherwise provided in this section or unless otherwise agreed to in

276 writing by the parties, an arbitration proceeding conducted under this section shall be governed  
277 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

278 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
279 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
280 Subsections (10)(a) through (c) are satisfied.

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

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

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

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

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

292 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all  
293 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount  
294 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist  
295 policies.

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

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

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

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

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

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

306 (p) An arbitration award issued under this section shall be the final resolution of all

307 claims not excluded by Subsection (9)(m) between the parties unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

336 (t) If a district court determines, upon a motion of the nonmoving party, that the  
337 moving party's use of the trial de novo process was filed in bad faith in accordance with

338 Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving  
339 party.

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

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

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

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

349 (A) subject to Subsection [~~(10)(t)~~] (10)(m), the specific monetary amount of the  
350 demand, including a computation of the covered person's claimed past medical expenses,  
351 claimed past lost wages, and the other claimed past economic damages; and

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

353 (ii) a written statement under oath disclosing:

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

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

365 (B) (I) the names and last known addresses of all health insurers or other entities to  
366 whom the covered person has submitted claims for health care services or benefits material to  
367 the claims for which uninsured motorist benefits are sought, for a period of five years  
368 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the

369 time the election for arbitration or litigation has been exercised; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

424 (d) (i) If an uninsured motorist carrier is aware or should be aware that the covered  
425 person's written demand for payment of uninsured motorist coverage benefits described in  
426 Subsection (10)(a)(i) is deficient or missing a requirement described in Subsections (10)(a)(i)  
427 through (iii), the uninsured motorist carrier shall identify and specify with particularity each  
428 alleged deficiency in the written response required under Subsection (10)(c)(i).

429 (ii) If an uninsured motorist carrier alleges a deficiency described in Subsection  
430 (10)(d)(i) in the written response required under Subsection (10)(c)(i), the covered person shall

431 have 30 days from notice of such particular deficiency to supply the needed information and  
432 cure the alleged deficiency.

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

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

437 (ii) elect to:

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

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

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

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

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

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

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

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

458 (ii) any of the following applicable costs:

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

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

461 (C) the reasonable costs of expert witnesses and depositions used in the presentation of

462 evidence during arbitration or litigation.

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

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

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

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

470 ~~[(i)]~~ (j) (i) A covered person shall:

471 (A) disclose all material information, other than rebuttal evidence, within 30 days after  
472 a covered person elects to submit a claim for uninsured motorist coverage benefits to binding  
473 arbitration or files litigation as specified in Subsection (10)(a)~~[-]~~; and

474 (B) have a continuing obligation thereafter to disclose new or additional material  
475 information, except for rebuttal evidence, within a reasonable time from the time the covered  
476 person knew or should have known of such information.

477 (ii) If the information under Subsection ~~[(10)(i)(i)]~~ (10)(j)(i) is not timely disclosed, the  
478 ~~[covered person may not recover]~~ uninsured motorist carrier may object to the covered person's  
479 recovery of costs or any amounts in excess of the policy under Subsection ~~[(10)(g)]~~ (10)(h).

480 (iii) An uninsured motorist carrier shall file an objection described in Subsection  
481 (10)(j)(ii) at least seven days prior to the hearing.

482 (iv) In considering the objection described in Subsection (10)(j)(ii) and determining  
483 whether the covered person is entitled to recovery of costs or an amount in excess of the policy  
484 under Subsection (10)(h), the arbitrator or arbitration panel shall consider whether:

485 (A) the covered person failed to provide initial material information or failed to timely  
486 supplement such information as required by Subsection (10)(a);

487 (B) the uninsured motorist carrier timely notified the covered person of any  
488 deficiencies as required by Subsection (10)(d); and

489 (C) the lack of the information or timely notice of such information was substantially  
490 material to the award given following the hearing.

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



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

495           ~~[(t)]~~ (m) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not  
496 affect the covered person's requirement to provide a computation of any other economic  
497 damages claimed, and the one or more respondents shall have a reasonable time after the  
498 receipt of the computation of any other economic damages claimed to conduct fact and expert  
499 discovery as to any additional damages claimed. The changes made by Laws of Utah 2014,  
500 Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection ~~[(10)(t)]~~ (10)(m) and  
501 Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation  
502 on or after May 13, 2014.

503           (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
504 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to  
505 binding arbitration or through litigation on or after May 13, 2014.

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

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

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

512           **[31A-22-305.3](#). Underinsured motorist coverage.**

513           (1) As used in this section:

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

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

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

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

522           (B) an uninsured motor vehicle as defined in Subsection [31A-22-305](#)(2); or

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

- 524 (I) a named insured;
- 525 (II) a named insured's spouse; or
- 526 (III) a dependent of a named insured.

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

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

- 533 (i) described in the policy under which a claim is made; or
- 534 (ii) a newly acquired or replacement motor vehicle covered under the terms of the  
535 policy.

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

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

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

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

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

- 547 (i) is filed with the department;
- 548 (ii) is provided by the insurer;
- 549 (iii) waives the higher coverage;
- 550 (iv) need only state in this or similar language that "underinsured motorist coverage  
551 provides benefits or protection to you and other covered persons for bodily injury resulting  
552 from an accident caused by the fault of another party where the other party has insufficient  
553 liability insurance"; and

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

555 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
556 liability coverage or the maximum underinsured motorist coverage limits available by the  
557 insurer under the named insured's motor vehicle policy.

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

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

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

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

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

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

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

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

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

584 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,  
585 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or

586 filed a complaint in a court of competent jurisdiction.

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

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

589 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

614 (B) a disclosure of the additional premiums required to purchase underinsured motorist  
615 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
616 liability coverage or the maximum underinsured motorist coverage limits available by the

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

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

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

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

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

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

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

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

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

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

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

646 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the  
647 percentage of the damages that the limit of liability of each parent's policy of underinsured

648 motorist coverage bears to the total of both parents' underinsured coverage applicable to the  
649 accident.

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

652 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is  
653 primary coverage, and the coverage elected by a person described under Subsections  
654 [31A-22-305\(1\)\(a\)](#), (b), and (c) is secondary coverage.

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

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

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

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

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

665 (c) Underinsured motorist coverage:

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

669 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'  
670 compensation insurance, uninsured employer, the Uninsured Employers Fund created in  
671 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

672 (iii) may not be reduced by benefits provided by workers' compensation insurance,  
673 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the  
674 Employers' Reinsurance Fund created in Section [34A-2-702](#);

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

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

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

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

681 (C) while committing a felony; and

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

683 (A) for a person under 18 years ~~[of age]~~ old who is injured within the scope of  
684 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

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

687 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured  
688 motorist claims occurs upon ~~[the date of the last liability policy payment.]~~ the later of:

689 (a) the date upon which the last liability policy release is fully executed; or

690 (b) the date of the last liability policy payment.

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

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

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

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

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

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

702 (ii) through litigation.

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

708 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the  
709 claimant may not elect to resolve the claim through binding arbitration under this section

710 without the written consent of the underinsured motorist coverage carrier.

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

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

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

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

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

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

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

724 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

734 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
735 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
736 Subsections (9)(a) through (c) are satisfied.

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

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



741 arbitration claims under this part.

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

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

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

748 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all  
749 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount  
750 equal to the combined underinsured motorist policy limits of all applicable underinsured  
751 motorist policies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

792 (t) If a district court determines, upon a motion of the nonmoving party, that a moving  
793 party's use of the trial de novo process is filed in bad faith in accordance with Section  
794 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

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

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

805 (A) subject to Subsection [~~(9)(l)~~,] (9)(m) the specific monetary amount of the demand,  
806 including a computation of the covered person's claimed past medical expenses, claimed past  
807 lost wages, and all other claimed past economic damages; and

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

809 (ii) a written statement under oath disclosing:

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

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

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

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

832 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all  
833 employers of the covered person for a period of five years preceding the date of the event

834 giving rise to the claim for underinsured motorist benefits up to the time the election for  
835 arbitration or litigation has been exercised;

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

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

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

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

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

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

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

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

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

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

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

864 (A) provide a written response to the written demand for payment provided for in

865 Subsection (9)(a)(i);

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

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

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

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

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

881 (d) (i) If an underinsured motorist carrier is aware or should be aware that the covered  
882 person's written demand for payment of underinsured motorist coverage benefits described in  
883 Subsection (9)(a)(i) is deficient or missing a requirement described in Subsections (9)(a)(i)  
884 through (iii), the underinsured motorist carrier shall identify and specify with particularity each  
885 alleged deficiency in the written response required under Subsection (9)(c)(i).

886 (ii) If an underinsured motorist carrier alleges a deficiency described in Subsection  
887 (9)(d)(i) in the written response required under Subsection (9)(c)(i), the covered person shall  
888 have 30 days from notice of such particular deficiency to supply the needed information and  
889 cure the alleged deficiency.

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

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

894 (ii) elect to:

895 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all

896 underinsured motorist claims; and

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

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

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

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

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

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

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

915 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

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

927 ~~[(f)]~~ (j) (i) A covered person shall:

928 (A) disclose all material information, other than rebuttal evidence, within 30 days after  
 929 a covered person elects to submit a claim for underinsured motorist coverage benefits to  
 930 binding arbitration or files litigation as specified in Subsection (9)(a)[-]; and

931 (B) have a continuing obligation thereafter to disclose new or additional material  
 932 information, except for rebuttal evidence, within a reasonable time from the time the covered  
 933 person knew or should have known of such information.

934 (ii) If the information under Subsection ~~[(9)(i)(i)]~~ (9)(j)(i) is not timely disclosed, the  
 935 ~~[covered person may not recover]~~ underinsured motorist carrier may object to the covered  
 936 person's recovery of costs or any amounts in excess of the policy under Subsection ~~[(9)(g)]~~  
 937 (9)(h).

938 (iii) An underinsured motorist carrier shall file an objection described in Subsection  
 939 (9)(j)(ii) at least seven days prior to the hearing.

940 (iv) In considering the objection described in Subsection (9)(j)(ii) and determining  
 941 whether the covered person is entitled to recovery of costs or an amount in excess of the policy  
 942 under Subsection (9)(h), the arbitrator or arbitration panel shall consider whether:

943 (A) the covered person failed to provide initial material information or failed to timely  
 944 supplement such information as required by Subsection (9)(a);

945 (B) the underinsured motorist carrier timely notified the covered person of any  
 946 deficiencies as required by Subsection (9)(d); and

947 (C) the lack of the information or timely notice of such information was substantially  
 948 material to the award given following the hearing.

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

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

953 ~~[(h)]~~ (m) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect  
 954 the covered person's requirement to provide a computation of any other economic damages  
 955 claimed, and the one or more respondents shall have a reasonable time after the receipt of the  
 956 computation of any other economic damages claimed to conduct fact and expert discovery as to  
 957 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,

958 Section 11, and Chapter 300, Section 11, to this Subsection [~~(9)(l)~~] (9)(m) and Subsection  
959 (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after  
960 May 13, 2014.

961 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter  
962 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to  
963 binding arbitration or through litigation on or after May 13, 2014.