

MOTOR VEHICLE INSURANCE MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to uninsured and underinsured motorist coverage.

Highlighted Provisions:

This bill:

- clarifies that certain benefits related to the Utah Labor Commission do not need to be exhausted before uninsured or underinsured motorist coverage can be paid.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327

31A-22-305.3, as last amended by Laws of Utah 2023, Chapters 69, 327

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

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

31A-22-305. Uninsured motorist coverage.

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

(a) the named insured;



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

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

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

34 (i) referred to in the policy; or

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

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

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

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

42 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
43 [31A-22-304](#); and

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

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

48 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
49 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
50 60 days; or

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

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

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

58 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured

59 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
60 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
61 under the named insured's motor vehicle policy, unless a named insured rejects or purchases
62 coverage in a lesser amount by signing an acknowledgment form that:

63 (i) is filed with the department;

64 (ii) is provided by the insurer;

65 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

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

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

90 replacement, substitute, or temporary vehicles.

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

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

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

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

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

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

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

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

111 (B) clarifies legislative intent.

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

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

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

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

120 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the

121 uninsured motorist coverage until the named insured requests, in writing, different uninsured
122 motorist coverage from the insurer.

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

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

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

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

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

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

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

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

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

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

152 (c) Uninsured motorist coverage:
153 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
154 Compensation Act or Title 34A, Chapter 3, Utah Occupational Disease Act, except that the
155 covered person is credited an amount described in Subsection 34A-2-106(5)[;], and any benefit
156 paid or payable as awarded by the Utah Labor Commission under Title 34A, Chapter 2,
157 Workers' Compensation Act or Title 34A, Chapter 3, Utah Occupational Disease Act does not
158 need to be exhausted before uninsured motorist coverage may be paid;
159 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'
160 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
161 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;
162 (iii) may not be reduced by any benefits provided by workers' compensation insurance,
163 uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the
164 Employers' Reinsurance Fund created in Section 34A-2-702;
165 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance
166 subrogation only after the covered person has been made whole;
167 (v) may not be collected for bodily injury or death sustained by a person:
168 (A) while committing a violation of Section 41-1a-1314;
169 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
170 in violation of Section 41-1a-1314; or
171 (C) while committing a felony; and
172 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:
173 (A) for a person under 18 years old who is injured within the scope of Subsection
174 (5)(c)(v) but limited to medical and funeral expenses; or
175 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
176 within the course and scope of the law enforcement officer's duties.
177 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
178 Section 41-1a-102.
179 (6) When a covered person alleges that an uninsured motor vehicle under Subsection
180 (2)(b) proximately caused an accident without touching the covered person or the motor
181 vehicle occupied by the covered person, the covered person shall show the existence of the
182 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered

183 person's testimony.

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

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

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

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

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

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

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

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

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

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

212 (A) to the covered person;

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

214 (C) to the covered person's resident parent or resident sibling.
215 (c) (i) A covered person may recover benefits from no more than two additional
216 policies, one additional policy from each parent's household if the covered person is:
217 (A) a dependent minor of parents who reside in separate households; and
218 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
219 furnished:
220 (I) to the covered person;
221 (II) to the covered person's resident parent; or
222 (III) to the covered person's resident sibling.
223 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
224 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
225 bears to the total of both parents' uninsured coverage applicable to the accident.
226 (d) A covered person's recovery under any available policies may not exceed the full
227 amount of damages.
228 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
229 elections if recovery is unavailable under previous elections.
230 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
231 single incident of loss under more than one insurance policy.
232 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
233 interpolicy stacking is prohibited for uninsured motorist coverage.
234 (9) (a) When a claim is brought by a named insured or a person described in
235 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
236 claimant may elect to resolve the claim:
237 (i) by submitting the claim to binding arbitration; or
238 (ii) through litigation.
239 (b) Unless otherwise provided in the policy under which uninsured benefits are
240 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that
241 if the policy under which insured benefits are claimed provides that either an insured or the
242 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
243 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).
244 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),

245 the claimant may not elect to resolve the claim through binding arbitration under this section
246 without the written consent of the uninsured motorist carrier.

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

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

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

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

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

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

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

260 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

307 of Evidence in the district court.

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

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

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

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

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

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

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

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

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

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

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

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

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

337 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured

338 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
339 the uninsured motorist carrier:

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

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

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

345 (ii) a written statement under oath disclosing:

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

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

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

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

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

369 giving rise to the claim for uninsured motorist benefits up to the time the election for
370 arbitration or litigation has been exercised;

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

372 (E) all state and federal statutory lienholders including a statement as to whether the
373 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
374 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
375 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

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

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

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

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

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

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

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

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

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

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

400 Subsection (10)(a)(i);

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

403 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
404 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
405 Children's Health Insurance Program, or if the claim is subject to any other state or federal
406 statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of
407 the amount owed to the covered person less:

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

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

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

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

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

420 (ii) elect to:

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

423 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
424 made under Subsections (9)(a) through (c).

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

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

430 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid

431 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

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

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

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

441 (ii) any of the following applicable costs:

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

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

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

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

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

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

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

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

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

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

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

462 (l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect
463 the covered person's requirement to provide a computation of any other economic damages
464 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
465 computation of any other economic damages claimed to conduct fact and expert discovery as to
466 any additional damages claimed.

467 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and
468 Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a
469 claim submitted to binding arbitration or through litigation on or after May 13, 2014.

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

473 (11) (a) A person shall commence an action on a written policy or contract for
474 uninsured motorist coverage within four years after the inception of loss.

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

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

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

479 (1) As used in this section:

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

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

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

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

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

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

490 (I) a named insured;

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

492 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

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

513 (i) is filed with the department;

514 (ii) is provided by the insurer;

515 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

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

584 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
585 insureds that carry underinsured motorist coverage limits in an amount less than the named

586 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
587 limits available by the insurer under the named insured's motor vehicle policy.

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

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

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

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

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

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

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

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

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

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

616 (iv) A covered person's recovery under any available policies may not exceed the full

617 amount of damages.

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

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

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

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

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

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

631 (c) Underinsured motorist coverage:

632 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
633 Compensation Act or Title 34A, Chapter 3, Utah Occupational Disease Act, except that the
634 covered person is credited an amount described in Subsection [34A-2-106\(5\)](#)[;], and any benefit
635 paid or payable as awarded by the Utah Labor Commission under Title 34A, Chapter 2,
636 Workers' Compensation Act or Title 34A, Chapter 3, Utah Occupational Disease Act does not
637 need to be exhausted before underinsured motorist coverage may be paid;

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

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

644 (iv) notwithstanding Subsection [31A-1-103\(3\)\(f\)](#) may be reduced by health insurance
645 subrogation only after the covered person is made whole;

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

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

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

650 (C) while committing a felony; and

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

652 (A) for a person younger than 18 years old who is injured within the scope of
653 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

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

656 (5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
657 for underinsured motorist coverage shall be commenced within four years after the inception of
658 loss.

659 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured
660 motorist claims occurs upon the date of the settlement check representing the last liability
661 policy payment.

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

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

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

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

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

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

673 (ii) through litigation.

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

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

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

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

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

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

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

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

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

695 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

705 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
706 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
707 Subsections (9)(a) through (c) are satisfied.

708 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
709 shall be determined based on the claimant's specific monetary amount in the written demand

710 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

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

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

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

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

719 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
720 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
721 equal to the combined underinsured motorist policy limits of all applicable underinsured
722 motorist policies.

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

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

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

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

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

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

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

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

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

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

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

740 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall

741 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of
742 Evidence in the district court.

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

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

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

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

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

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

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

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

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

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

763 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
764 party's use of the trial de novo process is filed in bad faith in accordance with Section
765 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

771 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured

772 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
773 the underinsured motorist carrier:

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

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

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

780 (ii) a written statement under oath disclosing:

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

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

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

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

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

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

808 (E) all state and federal statutory lienholders including a statement as to whether the
809 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
810 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
811 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

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

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

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

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

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

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

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

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

831 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
832 notice of filing litigation and the demand for payment of underinsured motorist benefits under
833 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the

834 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

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

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

839 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
840 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
841 Children's Health Insurance Program, or if the claim is subject to any other state or federal
842 statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of
843 the amount owed to the covered person less:

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

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

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

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

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

856 (ii) elect to:

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

859 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
860 made under Subsections (8)(a) through (c).

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

- 865 (f) In an arbitration proceeding on the remaining underinsured claims:
- 866 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
867 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and
- 868 (ii) the parties may not disclose the amount of the limits of underinsured motorist
869 benefits provided by the policy.
- 870 (g) If the final award obtained through arbitration or litigation is greater than the
871 average of the covered person's initial written demand for payment provided for in Subsection
872 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
873 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:
- 874 (i) the final award obtained through arbitration or litigation, except that if the award
875 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
876 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and
- 877 (ii) any of the following applicable costs:
- 878 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 879 (B) the arbitrator or arbitration panel's fee; and
- 880 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
881 evidence during arbitration or litigation.
- 882 (h) (i) The covered person shall provide an affidavit of costs within five days of an
883 arbitration award.
- 884 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
885 which the underinsured motorist carrier objects.
- 886 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 887 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
888 may not exceed \$5,000.
- 889 (i) (i) A covered person shall disclose all material information, other than rebuttal
890 evidence, within 30 days after a covered person elects to submit a claim for underinsured
891 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
892 (9)(a).
- 893 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
894 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).
- 895 (j) This Subsection (9) does not limit any other cause of action that arose or may arise

896 against the underinsured motorist carrier from the same dispute.

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

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

906 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
907 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
908 binding arbitration or through litigation on or after May 13, 2014.

909 **Section 3. Effective date.**

910 This bill takes effect on May 1, 2024.