

**UNINSURED MOTORIST AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nelson T. Abbott**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to uninsured and underinsured motorist coverage issues, including the disclosure of information and curing deficiencies in the sharing of information.

**Highlighted Provisions:**

This bill:

- ▶ requires an uninsured or underinsured motorist carrier to identify and specify a deficiency in a covered person's demand for payment;
- ▶ provides an opportunity for an individual to cure a deficiency in information;
- ▶ allows an uninsured or underinsured motorist carrier to file an objection to a covered person's recovery of certain costs;
- ▶ provides criteria for an arbitrator to consider regarding an objection to a covered person's recovery of costs; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 31A-22-305, as last amended by Laws of Utah 2022, Chapter 163

29 31A-22-305.3, as last amended by Laws of Utah 2022, Chapters 163, 198



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

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

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

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

35 (a) the named insured;

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

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

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

42 (i) referred to in the policy; or

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

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

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

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

50 (ii) (A) a motor vehicle covered with lower liability limits than required by Section  
51 31A-22-304; and

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

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

56 (c) a motor vehicle covered by a liability policy, but coverage for an accident is  
57 disputed by the liability insurer for more than 60 days or continues to be disputed for more than  
58 60 days; or

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

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

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

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

71 (i) is filed with the department;

72 (ii) is provided by the insurer;

73 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 (B) clarifies legislative intent.

120 (h) A self-insured, including a governmental entity, may elect to provide uninsured

121 motorist coverage in an amount that is less than its maximum self-insured retention under  
122 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from  
123 the chief financial officer or chief risk officer that declares the:

- 124 (i) self-insured entity's coverage level; and
- 125 (ii) process for filing an uninsured motorist claim.

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

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

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

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

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

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

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

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

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

151 (iii) This rejection continues for that issuer of the liability coverage until the insured in

152 writing requests uninsured motorist coverage from that liability insurer.

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

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

160 (c) Uninsured motorist coverage:

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

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

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

170 (iv) notwithstanding Subsection [31A-1-103\(3\)](#), may be reduced by health insurance  
171 subrogation only after the covered person has been made whole;

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

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

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

176 (C) while committing a felony; and

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

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

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

182 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under

183 Section 41-1a-102.

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

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

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

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

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

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

200 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary  
201 coverage, and the coverage elected by a person described under Subsections (1)(a)[~~(b)~~, and]  
202 through (c) shall be secondary coverage.

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

211 (b) Each of the following persons may also recover uninsured motorist benefits under  
212 any one other policy in which they are described as a "covered person" as defined in Subsection  
213 (1):

214 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and  
215 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying  
216 or using a motor vehicle that is not owned, leased, or furnished:

- 217 (A) to the covered person;
- 218 (B) to the covered person's spouse; or
- 219 (C) to the covered person's resident parent or resident sibling.

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

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

- 225 (I) to the covered person;
- 226 (II) to the covered person's resident parent; or
- 227 (III) to the covered person's resident sibling.

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

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

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

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

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

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

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

244 (b) Unless otherwise provided in the policy under which uninsured benefits are



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

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

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

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

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

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

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

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

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

265 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

275 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),

276 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
277 Subsections (10)(a) through (c) are satisfied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

325 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless  
326 Subsection ~~[(10)(h)(iii)]~~ (10)(i)(iii) applies.

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

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

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

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

337 (u) Nothing in this section is intended to limit any claim under any other portion of an

338 applicable insurance policy.

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

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

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

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

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

350 (ii) a written statement under oath disclosing:

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

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

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

367 (II) the names and last known addresses of the health insurers or other entities to whom  
368 the covered person has submitted claims for health care services or benefits, which the covered

369 person claims are immaterial to the claims for which uninsured motorist benefits are sought,  
370 for a period of five years preceding the date of the event giving rise to the claim for uninsured  
371 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (ii) If an uninsured motorist carrier alleges a deficiency described in Subsection  
427 (10)(d)(i) in the written response required under Subsection (10)(c)(i), the covered person shall  
428 have 30 days from notice of such particular deficiency to supply the needed information and  
429 cure the alleged deficiency.

430 [~~(d)~~] (e) A covered person who receives a written response from an uninsured motorist

431 carrier as provided for in Subsection (10)(c)(i), may:

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

434 (ii) elect to:

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

437 (B) continue to litigate or arbitrate the remaining claim in accordance with the election  
438 made under Subsections ~~[(9)(a), (b), and]~~ (9)(a) through (c).

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

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

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

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

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

452 (i) the final award obtained through arbitration or litigation, except that if the award  
453 exceeds the policy limits of the subject uninsured motorist policy by more than ~~[\$15,000]~~  
454 \$20,000, the amount shall be reduced to an amount equal to the policy limits plus ~~[\$15,000]~~  
455 \$20,000; and

456 (ii) any of the following applicable costs:

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

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

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

461 ~~[(h)]~~ (i) (i) The covered person shall provide an affidavit of costs within five days of an

462 arbitration award.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



493           ~~[(†)]~~ (m) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not  
494 affect the covered person's requirement to provide a computation of any other economic  
495 damages claimed, and the one or more respondents shall have a reasonable time after the  
496 receipt of the computation of any other economic damages claimed to conduct fact and expert  
497 discovery as to any additional damages claimed.

498           (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
499 300, Section 10, to this Subsection ~~[(†)]~~ (10)(m) and Subsection (10)(a)(i)(A) apply to a  
500 claim submitted to binding arbitration or through litigation on or after May 13, 2014.

501           (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
502 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to  
503 binding arbitration or through litigation on or after May 13, 2014.

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

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

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

510           **[31A-22-305.3. Underinsured motorist coverage.](#)**

511           (1) As used in this section:

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

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

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

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

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

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

522           (I) a named insured;

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

524 (III) a dependent of a named insured.

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

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

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

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

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

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

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

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

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

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

545 (i) is filed with the department;

546 (ii) is provided by the insurer;

547 (iii) waives the higher coverage;

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

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

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

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

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

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

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

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

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

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

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

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

582 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,  
583 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or  
584 filed a complaint in a court of competent jurisdiction.

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

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

587 (B) clarifies legislative intent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

663 (c) Underinsured motorist coverage:

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

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

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

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

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

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

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

679 (C) while committing a felony; and

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

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

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

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

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

690 (i) the date upon which the last liability policy release or settlement document is fully  
691 executed; or

692 (ii) the date of the settlement check representing the last liability policy payment.

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

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

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

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

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

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

704 (ii) through litigation.

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

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

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

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

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

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

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

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

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

726 (g) Unless otherwise agreed to in writing:

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

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

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

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

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

736 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
737 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
738 Subsections (9)(a) through (c) are satisfied.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

794 (t) If a district court determines, upon a motion of the nonmoving party, that a moving  
795 party's use of the trial de novo process is filed in bad faith in accordance with Section  
796 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

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

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

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

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

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

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

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

811 (ii) a written statement under oath disclosing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

896 (ii) elect to:

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

899 (B) continue to litigate or arbitrate the remaining claim in accordance with the election  
900 made under Subsections ~~[(8)(a), (b), and]~~ (8)(a) through (c).

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

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

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

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

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

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

917 (ii) any of the following applicable costs:

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

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

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

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

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

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

927 (iii) The award of costs by the arbitrator or arbitration panel under Subsection  
928 ~~[(9)(g)(ii)]~~ (9)(h)(i) may not exceed \$5,000.

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

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

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

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

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

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

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

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

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

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

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

955 ~~[(†)]~~ (m) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect  
956 the covered person's requirement to provide a computation of any other economic damages  
957 claimed, and the one or more respondents shall have a reasonable time after the receipt of the

958 computation of any other economic damages claimed to conduct fact and expert discovery as to  
959 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,  
960 Section 11, and Chapter 300, Section 11, to this Subsection [~~(9)(t)~~] (9)(m) and Subsection  
961 (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after  
962 May 13, 2014.

963 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter  
964 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to  
965 binding arbitration or through litigation on or after May 13, 2014.