



# Legislative Report

## Health Care Eligibility and Access

**February 2022**

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Minnesota Statutes, Chapter 3.197, requires the disclosure of the cost to prepare this report. The estimated cost of preparing this report is \$1,266.00.

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# I. Executive summary

The Minnesota Department of Human Services' State Medical Review Team (SMRT) makes disability certifications that establish a basis of eligibility for Medical Assistance (MA), Minnesota's Medicaid program. Counties submit referrals to SMRT on behalf of their clients when a disability certification is necessary. The SMRT completes disability determinations according to disability criteria defined by the Social Security Administration (SSA).

SSA criteria allows SMRT to certify disability for a period of one to seven years. At the end of the certification period, SMRT examines updated medical evidence to determine whether the client's medical condition has improved. In fiscal year 2021, 22 percent of SMRT disability determinations were Continuing Disability Reviews (CDR).

The SMRT received 5,929 referrals in fiscal year (FY) 2021 reflecting:

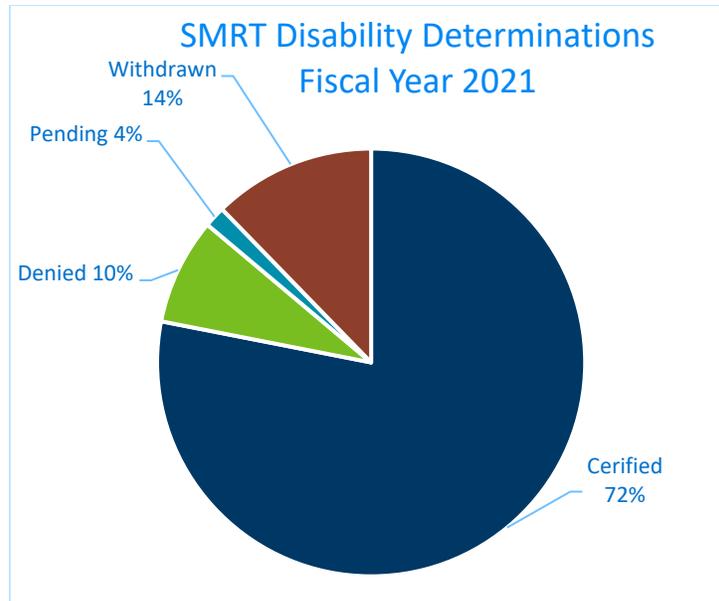
- The average client age was 28 years old.
- 70% did not have health care coverage at referral.
- 33% had an active application for SSA disability benefits.
- 16% were in the hospital in the three months before they were referred to SMRT.

SMRT referrals result in a disability certification or denial, although a few remain pending while the SMRT obtains medical evidence to make a determination. Some clients withdraw referrals.

Of the 5,929 FY 2021 referrals, the SMRT:

- Certified 4,235 referrals (72 percent)
- Denied 599 referrals (10 percent)
- Pending 240 referrals (4 percent)

Clients withdrew 855 referrals (14 percent). The average length of time from referral to a decision was **88 days**.

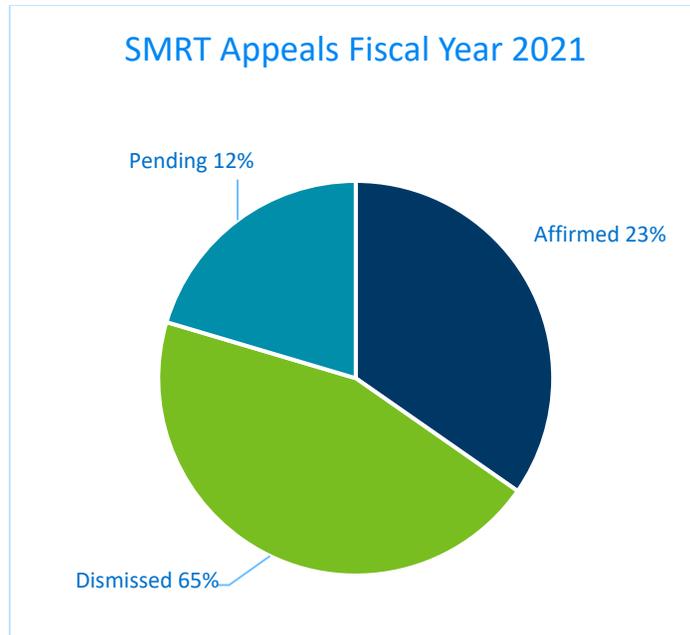


Of the 599 denials, 69 (12 percent) were appealed. Clients who disagree with a SMRT disability denial have the right to appeal the decision to the DHS Appeals Division. A human services judge (HSJ) schedules an administrative hearing allowing both the client and SMRT to present their case. The HSJ issues a final decision where a number of outcomes may occur:

- Affirm: The HSJ agrees that the SMRT denial was appropriate and affirms the decision.
- Overturn: The HSJ disagrees with the SMRT denial and overturns the decision in favor of the client.
- Dismiss: The HSJ dismisses the client’s appeal because the client did not appear for the hearing, or the case was resolved in the client’s favor due to additional information SMRT received as part of the appeal.

The DHS Appeals Office ruled on these appeals as follows:

- 45 were dismissed (65 percent)
- 16 were affirmed (23 percent)
- 8 are pending (12 percent)
- 0 were overturned (0 percent)



The average length of time from DHS receipt of an appeal request to a decision was **80 days**.

## II. Legislation

Minnesota Statutes, section 256.01, subdivision 29(c) mandates this legislative report:

- c) The commissioner shall provide the chairs of the legislative committees with jurisdiction over health and human services finance and budget the following information on the activities of the state medical review team by February 1 of each year:
  - 1) the number of applications to the state medical review team that were denied, approved, or withdrawn;
  - 2) the average length of time from receipt of the application to a decision;
  - 3) the number of appeals, appeal results and length of time taken from the date the person involved requested an appeal for a written decision to be made on each appeal;
  - 4) for applicants, their age, health coverage at the time of application, hospitalization history within three months of application, and whether an application for Social Security or Supplemental Security Income benefits is pending; and
  - 5) specific information on the medical certification, licensure or other credentials of the person or persons performing the medical review determinations and length of time in that position.

## III. Introduction

This report was prepared in response to a mandate under Minnesota Statutes, section 256.01, subdivision 29(c). This report lays out the results of the data specified in statute. It includes a brief background to familiarize the reader with the disability determination process and an explanation as to why data may vary from previous years.

- It includes fiscal year data for activities performed by the Department of Human Services (DHS) SMRT and the Appeals Division.
- SMRT staff compiled and wrote this report with input from data specialists in the DHS Health Care Research and Quality and the Appeals & Regulations Divisions.
- Staff met in November and December to isolate the data, address discrepancies, and interpret and present the results.
- The cost to produce this report was \$1,266.00.

## IV. Background

The SMRT performs disability determinations for Minnesotans based on criteria specified by the SSA. Federal regulations<sup>1</sup> provide the requirements for the function and composition of state disability review teams as well as for periodic reexaminations of disability for Medicaid eligibility.

SMRT functions parallel to the disability determination process used by SSA. The SSA does not recognize a SMRT disability determination, so it cannot result in eligibility for any federally administered program.

### **Social Security Administration Process**

SSA criteria for a disability determination follows a five-step process designed to determine how an applicant's physical and/or mental condition affects their ability to work or perform activities of daily living. The five steps are:

1. Financial screens to identify applicants who work and are engaged in substantial gainful activity (SGA). To be eligible for benefits, a person cannot receive employment income that is greater than the monthly SGA amounts. The SGA figures for calendar years 2020 and 2021 are listed below since the state fiscal year 2021 crosses portions of both calendar years. A person engaged in SGA is not eligible for Social Security disability benefits.

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<sup>1</sup> Code of Federal Regulations, Title 42, Chapter IV, Subchapter C, Part 435, Subpart F, Section 435.541

**Monthly Substantial Gainful Activity (SGA) Amounts by Disability Type**

<b>Year</b>	<b>Blind</b>	<b>Non-blind</b>
2020	\$2,110	\$1,260
2021	\$2,190	\$1,310

2. A medical screen to determine whether applicants have a severe impairment.
3. A medical screen to determine whether applicants have a severe impairment or combination of impairments that meet or equal the SSA Child or Adult Medical Listings. Applicants that meet or equal a listing are allowed without further evaluation.
4. A determination of an applicant’s residual functional capacity (RFC) and finding regarding that individual’s ability to return to their past relevant work. A person’s RFC is his or her ability to do physical and mental work activities on a sustained basis despite limitations from their impairments.
5. A determination whether an applicant is able to perform other work in the national economy considering the person’s RFC, age, education, and work experience.

Impairment-related medical evidence is required for a disability determination. Children applying for MA services under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) option also must demonstrate that their condition(s) require the same level of care as provided in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities. SSA does not make TEFRA level of care determinations. These are done by the SMRT. Children who are certified disabled by SSA still require a level of care determination from the SMRT.

**The SMRT Process**

1. Counties submit referrals to SMRT on behalf of MA applicants and enrollees who need an MA determination based on disability.
2. SMRT mails the client information on the SMRT process and the case is assigned to a SMRT disability analyst.
3. The disability analyst interviews the client, determines what medical evidence they need, requests medical records from providers, and sets-up medical exams if necessary.
4. SMRT case specialists capture and index all medical evidence received by fax and mail.
5. SMRT disability analysts make most disability decisions and follow an escalation protocol for complex cases. This allows for a case decision at the earliest possible point in the determination process.

6. County financial workers screen cases nearing a certification end date to determine if a Continuing Disability Review (CDR) is needed and generate a referral when necessary. This was done by SMRT case specialists prior to November 2021, when a process changes was implemented.
7. SMRT disability analysts make multiple attempts to contact a client by phone and mail. This includes reaching out to any third parties SMRT is authorized to contact on behalf of the client. Once a reasonable effort has been made to develop the record, a decision is made based on the evidence on file. This can result in a denial for insufficient evidence if clients do not respond to attempts to contact them and develop the record.
8. SMRT mails the disability decision to the client and faxes it to the county that submitted the referral.

A SMRT certification of disability establishes a basis of eligibility for MA, including Home and Community Based waiver programs, TEFRA and Medical Assistance for Employed Persons with Disabilities (MA-EPD). It also allows individuals to be excluded from MA managed care or voluntarily enroll in Special Needs Basic Care (SNBC). A SMRT certification of disability also gives people access to the Family Support Grant (FSG), which provides state cash grants to families of children with certified disabilities. Certifications are valid for one year up to seven years, depending on the nature and severity of the disability. Under the TEFRA option, SMRT can certify children for up to four years.

At the end of the certification period, SMRT may complete a CDR. Following SSA criteria, SMRT collects and examines current medical evidence to determine whether the severity of the client's impairment has improved since their last review. In fiscal year 2021, 22 percent of disability determinations were CDRs.

## V. Methodology

The data used in this report came from two sources:

1. The SMRT case management system
2. The state's data warehouse, specifically the Medicaid Management Information System (MMIS) and MAXIS. MMIS is the claims payment system and MAXIS is the MA eligibility system used for people who are 65 or older, blind or have a disability.

The SMRT case management system tracks the status of a referral from the date received to the date a disability or appeal decision is made. It records personal information about a client including name, age, state identifiers, and the program they applied for.

Data from the SMRT case management system is searched, cross-checked against original documents and matched against data from MMIS and MAXIS through the state's data warehouse.

DHS staff analyzed referrals and appeals received from July 1, 2020, through June 30, 2021, through to their completion, including case decisions made after the date range.

A SMRT data specialist extracted data from the SMRT case management system on November 4, 2021. This data was used for the statutory requirements for the number of applications that were denied, approved or withdrawn and the average length of time for a decision in paragraphs (1) and (2); the number of appeals, appeal results, and the length of time from appeal request to written decision in paragraph (3); and the age requirement in paragraph (4).

Data from the state's data warehouse, specifically MMIS and MAXIS was used for the remaining statutory requirements in paragraph (4). A data specialist from DHS' Health Care Research and Quality Division extracted the following data from the state's data warehouse on November 16, 2021:

- Health coverage at the time of application;
- Hospitalization history within three months of application; and
- Whether an application for Social Security Supplemental Security Income benefits was pending.

SMRT staff provided the information listed in statute under paragraph (5) regarding the qualifications and experience of the staff and medical professionals who perform the determinations.

## VI. Report results

### A. Historical Results

This chart depicts the number of SMRT referrals for the **last five fiscal years**. The rise and fall of referrals is usually the result of policy and systems changes that occur within and across fiscal years.

Fiscal Year	Number of SMRT referrals	Change from Previous Fiscal Year
2017	6,840	+37%
2018	7,200	+5%
2019	7,104	-1.3%
2020	6,928	-2.5%
2021	5,929	-14%

SMRT referrals in fiscal year 2021 decreased 14% from fiscal year 2020 likely due to Minnesota’s response to the COVID-19 emergency. SMRT suspended or reduced Continuing Disability Review (CDR) referrals from March of 2020 through September of 2021. We resumed the processing of CDRs in October and November of 2021. During fiscal year 2021, SMRT prioritized initial determinations, utilized approved overtime hours, and expedited reviews for patients in hospitals who were awaiting discharge. These efforts assisted hospitals to free up beds for COVID-19 response, and allowed for timely determinations made for the people we serve. It is anticipated that referral levels will return to pre-COVID-19 levels after the public health emergency ends.

## B. Individual Report Results

Minnesota Statutes, section 256.01, subdivision 29(c):

- c) The commissioner shall provide...the following information on the activities of the state medical review team...:
  - 1) the number of applications to the state medical review team that were denied, approved, or withdrawn;

In fiscal year 2021, the SMRT received a total of **5,929 referrals**. Of the 5,929 referrals, 4,616 or 78% were new cases and 1,313 or 22% were Continuing Disability Reviews (CDR).

There are four outcome categories for a SMRT referral.

- 1. **Certified:** medical evidence shows the applicant is disabled according to SSA criteria.
- 2. **Denied:** medical evidence shows the applicant is not disabled according to SSA criteria.
- 3. **Withdrawn:** the referral was received, but no final determination was made.
- 4. **Pending:** the case was still pending or under review at the time the data was pulled.

**SMRT referrals outcomes fiscal year 2021**

Outcome	Number	Percent
Certified	4,235	72%
Denied	599	10%
Withdrawn	855	14%
Pending	240	4%

Minnesota Statutes, section 256.01, subdivision 29(c):

- c) The commissioner shall provide...the following information on the activities of the state medical review team...:
  - 2) the average length of time from receipt of the application to a decision;

For this report, SMRT staff

- calculated length of time in calendar days.
- defined “receipt of application” date as the date the county faxed the referral to SMRT.
- defined “decision” as the date of certification or denial.

For all SMRT referrals in fiscal year 2021, the average time from receipt of the referral to a disability decision was **88 days**.

Minnesota Statutes, section 256.01, subdivision 29(c):

- c) The commissioner shall provide...the following information on the activities of the state medical review team...:
  - 3) the number of appeals, appeal results and length of time taken from the date the person involved requested an appeal for a written decision to be made on each appeal;

The DHS Appeals Office received **69 appeals** on cases that SMRT denied in fiscal year 2021. There are four possible outcomes of appeals:

1. **Dismissed:** the DHS Appeals Office dismissed the appeal. In most dismissals, additional information was received and the case was returned to SMRT for a determination.
2. **Affirmed:** The DHS Appeals Office conducted a fair hearing and agreed with the original SMRT denial.
3. **Overtured:** The DHS Appeals Office conducted a fair hearing and disagreed with the original SMRT denial, resulting in a disability certification.
4. **Pending:** The appeal was still pending as of the date the data was pulled.

**SMRT appeals outcomes fiscal year 2021**

<b>Result</b>	<b>Number</b>	<b>Percent</b>
<b>Dismissed</b>	45	65%
<b>Affirmed</b>	16	23%
<b>Overtured</b>	0	0%
<b>Pending</b>	8	12%

The average length of time from the appeal request to an appeal decision was **80 days**.

For this report, SMRT staff:

- calculated length of time in calendar days with time credited when the appeal hearing is continued or appeal record held open for the appellant’s benefit;
- defined the “date filed” as the date the DHS Appeals Office received the appeals request; and
- defined the “date closed” as the date the order was signed off on by the Chief Human Services Judge.

Minnesota Statutes, section 256.01, subdivision 29(c):

- c) The commissioner shall provide...the following information on the activities of the state medical review team...:
  - 4) for applicants, their age, health coverage at the time of application, hospitalization history within three months of application, and whether an application for Social Security or Supplemental Security Income benefits is pending;

“Age” is defined as the applicant’s age on the date of application. In fiscal year 2021, the **average applicant age was 28**.

*“Health coverage at the time of application”* is defined as any known third-party liability insurance coverage on the date of application. Of **5,929 applicants, 1,309 or 22 percent**, had third-party liability insurance coverage on the date of application.

Third-party liability	Number	Percent of total
Yes	1,309	22%
No	4,179	71%
Unknown	441	7%

*“Hospitalization history within three months of application”* is defined as an inpatient admission associated with the applicant based on claims data available to DHS. Admissions to Skilled Nursing Facilities were not included. *“Within three months of application”* is defined as three months prior to the date of application to three months after the date of application. The numbers are listed separately for each three month period. An applicant may have had a hospitalization(s) in both the three months prior to and after the application date.

Of 5,929 applicants, **968 or 16 percent**, were hospitalized in the **3 months prior** to the date of application.

Hospitalized 3 months prior to application date	Number	Percent of total
Yes	968	16%
No	4,961	84%

Of 5,929 applicants, **583 or 10 percent** were hospitalized in the **3 months after** the date of application.

Hospitalized 3 months after application date	Number	Percent of total
Yes	583	10%
No	5,346	90%

*“Whether an application for Social Security or Supplemental Security Income benefits is pending”* is based only on data available in the DHS data warehouse. The data was filtered to isolate SMRT applicants who had applied for Supplemental Security Income (SSI) and/or Retirement, Survivors, and Disability Insurance (RSDI), and then filtered again to include only applicants whose status was listed as “appealing,” “denied,” “eligible,” or “pending.”

Of 5,929 applicants, **1,971 or 33 percent**, had an application for SSI or RSDI pending with the Social Security Administration on the date they applied.

Minnesota Statutes, section 256.01, subdivision 29(c):

- c) The commissioner shall provide...the following information on the activities of the state medical review team...:
  - 5) specific information on the medical certification, licensure, or other credentials of the person or persons performing the medical review determinations and length of time in that position.

The following qualified staff performed medical review determinations for SMRT in fiscal year 2021:

- SMRT Unit Supervisor: 13 years with Social Security disability reviews and six years with SMRT.
- Appeals Specialist: 18 years of Social Security disability law and policy and one year with SMRT.
- 11 Disability Analysts: 70 combined years with Social Security disability reviews and 46 years with SMRT.

These professionals have **154 combined years of experience** performing Social Security disability reviews.