

# Minnesota Background Studies 2018-2019 Data Overview Part 4

The information above each section of tables is intended to provide context and understanding on what data is included in each respective section. There are [Additional Notes and Data Definitions](#) at the end of this packet with more information on specific terms and data points. The tables start at a high level and then progress into more detail in each section as data is disaggregated further.

## Section 1: Count of disqualified determinations with and without a reconsideration request by race/ethnicity, gender, and year

[Section 1](#) includes the total count of distinct determinations that are disqualifying or that had their disqualification rescinded and are now eligible by race/ethnicity, gender, and year. In the Data Overview Part 1, determinations were broken out by eligible and disqualifying. The determinations with their disqualification rescinded and now eligible were part of the eligible count in this first overview. These determinations have been included in this overview as they originally had one or more disqualifications and are therefore part of the total “universe” of disqualifying determinations that were eligible for a reconsideration request.

The counts of determinations in [Table 1](#) represent all determinations that were eligible for a reconsideration request and these determinations are broken out by race/ethnicity, gender, year, and whether reconsideration was requested or where a previous set aside was considered for the disqualified individual. [Section 2](#) below provides more information on reconsideration requests and their outcomes.

The tables in [Section 2](#), [Section 3](#), and [Section 4](#) and [Section 5](#) all flow from this same “universe” of determinations, and the data set gets smaller and smaller as determinations get to the final stages of the reconsideration and appeals process. For example, determinations with no request for reconsideration will not be included in the table of reconsideration outcomes in [Section 2](#) as the process ended when the disqualified individual did not request reconsideration of their disqualification.

All counts for a given date range (year in this case) were defined by determinations completed in that year. This date convention is used in all sections of this overview.

Table 1: Count of disqualifying determinations by reconsideration request by race/ethnicity, gender, and year

Year/Request for Recon/Gender	African American	Asian or Pacific Islander	Native American	None Provided	Unknown/Other	White	Grand Total
2018	2,675	153	419	31	585	3,759	7,622
No Reconsideration Request	1,839	105	325	14	402	2,058	4,743
Female	1,100	41	207		233	1,393	2,974
Male	739	64	118		163	664	1,748
Reconsideration Requested	836	48	94	17	183	1,701	2,879
Female	601	23	72	<10	123	1,233	2,053
Male	235	25	22		59	466	807
2019	4,888	281	618	255	1,047	5,839	12,928
No Reconsideration Request	3,631	202	463	158	727	3,527	8,708
Female	2,254	80	335		449	2,471	5,589
Male	1,377	122	127	<10	253	1,055	2,935
Reconsideration Requested	1,257	79	155	97	320	2,312	4,220
Female	778	30	119		206	1,697	2,830
Male	479	49	36		101	613	1,278
Grand Total	7,563	434	1,037	286	1,632	9,598	20,550

## Section 2: Count of determinations by reconsideration outcome

Any individual who is the subject of a disqualification may request a reconsideration of the disqualification. Requests for reconsideration must be submitted in writing to the Department of Human Services, the county agency that initiated the study, or the private licensing agency that initiated the background study depending on the provider type. The period for submitting a reconsideration request is also dependent on the provider type and the disqualified individual's risk of harm assessment under [Minn. Stat. sec. 245C.16](#) (see [section 245C.17](#) for the timelines).

As provided in [Minn. Stat. sec. 245C.21 subd. 3](#), disqualified individuals requesting reconsideration must submit information that shows either:

1. the information the commissioner relied upon in determining the disqualification is incorrect; or
2. the disqualified individual does not pose a risk of harm to any person served by the program for which the subject is seeking to provide services.

Depending on the type of reconsideration request submitted by the disqualified individual, a correctness review, risk of harm review, or correctness and risk of harm review is conducted, and each type of review can lead to different reconsideration outcomes.

- A **correctness** review evaluates the correctness of the information used in the disqualification. This type of review can either lead to a “rescind in total” outcome which rescinds the entire disqualification based on a finding that all of the disqualifying crimes or conduct were incorrect, or an “upheld” outcome, which upholds the disqualification based on a finding that one or more of the disqualifying crimes or conduct were correct. If the disqualification is rescinded in total, the study subject receives an “eligible” status and is cleared to provide services without restriction. If the disqualification is upheld, the study subject remains disqualified and may exercise further appeal rights.
- A **risk of harm** review evaluates whether a disqualified individual poses a risk of harm to any person served by the program. The risk of harm reconsideration can result in an outcome of “set aside”, “not set aside – variance granted”, or “not set aside”. A “set aside” may be granted when it is determined that the individual does not pose a risk of harm to any person served by the program and is able to provide services without restriction. A set aside of a disqualification is limited to the program specified in the set aside notice. A “not set aside – variance granted” outcome means that an individual's disqualification was not set aside, but that a variance was granted to the licensed program allowing the individual to provide services or be affiliated with the licensed setting as long as the conditions of the variance are met. Variances must be requested by the license or certification holder except for certain provider types providing service in a home setting ([Minn. Stat. sec. 245C.30](#)). A “not set aside” outcome means that an individual's disqualification was not set aside and they are not able to provide services.
- A **correctness and risk of harm** review evaluates both the correctness of the disqualifying crimes or conduct and the risk of harm posed by the disqualified individual. If the correctness review results in a finding that the entire disqualification is incorrect, the disqualification will be rescinded in total and the background study status will be changed to “eligible.” If the correctness review results in a finding that part or all of the disqualification is correct, the risk of harm review will determine whether a set aside should be granted. However, a set aside cannot be granted for any disqualification that is a bar to set aside under [Minn. Stat. sec. 245C.24](#).

A reconsideration request may also result in an outcome of “withdrawn” if the individual withdraws their reconsideration request or they fail to meet timelines for providing required information.

Disqualifying determinations may also result in an outcome of “previous set aside” or “remains set aside” under [Minn. Stat. sec. 245C.22, subd. 5\(b\)](#), without a reconsideration request in cases where an individual's disqualification has been set aside for one or more programs or agencies and a new disqualifying determination results in no new information that indicates the individual may pose a risk of harm. It is important to note that a reconsideration is not needed in these cases and that individuals with a disqualifying determination are notified if the determination has an outcome of “previous set aside” or “remains set aside” at the same time they are notified of their disqualification.

[Table 2](#) below includes all determinations from table 1 in section 1 that had a reconsideration request or a previous set aside considered by reconsideration outcome, race/ethnicity, gender, and year. There are 10 possible reconsideration outcomes that can result from the process described above that are represented in the table. [Table 2a](#) and [Table 2b](#) break the data out from [Table 2](#) for males and females respectively.

1. **Withdrawn:** A disqualified individual withdraws their reconsideration request or submits part of a reconsideration request but fails to meet timelines for providing required information.
2. **Previous Set Aside:** The previously issued set aside for an individual is applied to a new study for the same individual where the provider is of a similar type to the previous set aside, and there is no new information that indicates the individual may pose a risk of harm.
3. **Remains Set Aside:** The previously issued set aside for an individual is applied to a new study from the same provider, if there is no new information that indicates the individual may pose a risk of harm.
4. **Rescind in Total:** A correctness review found that all disqualifying crimes and conduct were incorrect and the individual's background study status is now eligible.
5. **Correctness Affirmed:** A correctness review upheld the disqualification, and there was either no risk of harm reconsideration requested, or the Commissioner is prohibited from setting aside the disqualification (i.e. permanent bar).
6. **Set Aside:** A risk of harm review found that a disqualified individual provided sufficient evidence to demonstrate they do not pose a risk of harm to any person served by the program, so they are able to provide services without restriction.
7. **Limited Set Aside:** A risk of harm review found that the disqualified individual provided sufficient evidence to demonstrate they do not pose a risk of harm to a specific person receiving personal care assistance services. A limited set aside is only available for personal care provider organizations under [Minn. Stat. sec. 245C.22, subd. 5\(a\)](#).
8. **Not Set Aside – Variance Granted:** A set aside is not granted based on a risk of harm analysis, but a variance is granted to a licensed program to allow a disqualified individual to provide services or be affiliated with the licensed setting with specific restrictions or conditions.
9. **Not Set Aside:** A set aside is denied based on a risk of harm analysis or because the disqualification is a bar to set aside.
10. **In Process:** The reconsideration review is still in process and a final determination has not yet been made.

Table 2: Count of determinations with reconsideration requested or previous set aside considered by race/ethnicity, gender, year, and outcome – All genders

Year/Outcome	African American	Asian or Pacific Islander	Native American	None Provided	Unknown/Other	White	Grand Total
2018	835	48	94	17	183	1,701	2,878
Withdrawn	11		<10		<10	24	43
Previous Set Aside	94	<10	<10		16	162	281
Remains Set Aside	129	<10	<10		21	162	317
Rescind in Total	19	<10	<10		<10	28	55
Correctness Affirmed	27	<10	<10		<10	20	56
Set Aside	305	25	37	<10	86	832	1,288
Limited Set Aside	26	<10	<10		<10	28	71
Not Set Aside – Variance Granted	33		<10	<10	10	91	146
Not Set Aside	194	<10	27	11	35	367	640
In Process	<10		<10				<10
2019	1,257	79	155	97	320	2,312	4,220
Withdrawn	28		<10	<10	<10	47	85
Previous Set Aside	95	<10	13		20	140	275
Remains Set Aside	49	<10	<10		<10	118	190
Rescind in Total	44	<10	<10	<10	17	71	146
Correctness Affirmed	50		<10	<10	<10	43	105
Set Aside	491	32	62	34	164	1,179	1,962
Limited Set Aside	26	<10	<10	<10	13	27	80
Not Set Aside – Variance Granted	50	<10	10	<10	<10	112	185
Not Set Aside	433	23	38	51	85	585	1,215
In Process	<10				<10	<10	10
<b>Grand Total</b>	<b>2,092</b>	<b>127</b>	<b>249</b>	<b>114</b>	<b>503</b>	<b>4,013</b>	<b>7,098</b>

Table 2a: Count of determinations with reconsideration requested or previous set aside considered by race/ethnicity, gender, year, and outcome - Male

Year/Outcome	African American	Asian or Pacific Islander	Native American	None Provided	Unknown/Other	White	Grand Total
2018	235	25	22		59	466	807
Withdrawn	<10				<10	<10	<10
Previous Set Aside	18		<10		<10	19	40
Remains Set Aside	<10	<10	<10		<10	46	59
Rescind in Total	<10	<10				<10	10
Correctness Affirmed	21		<10		<10	14	41
Set Aside	106	15	<10		27	220	373
Limited Set Aside	<10	<10	<10		<10	10	21
Not Set Aside – Variance Granted	12		<10		<10	41	63
Not Set Aside	60	<10	<10		17	112	197
In Process	<10						<10
2019	479	49	36		101	613	1,278
Withdrawn	10		<10		<10	19	31
Previous Set Aside	30	<10	<10		<10	24	62
Remains Set Aside	20	<10			<10	34	62
Rescind in Total	<10	<10	<10		<10	14	32
Correctness Affirmed	36		<10		<10	29	72
Set Aside	178	17	15		58	311	579
Limited Set Aside	13	<10	<10		<10	<10	28
Not Set Aside – Variance Granted	28	<10	<10		<10	54	90
Not Set Aside	158	16	<10		23	126	329
In Process	<10				<10		<10
Grand Total	714	74	58		160	1,079	2,085

Table 2b: Count of determinations with reconsideration requested or previous set aside considered by race/ethnicity, gender, year, and outcome – Female

Year/Outcome	African American	Asian or Pacific Islander	Native American	None Provided	Unknown/Other	White	Grand Total
2018	600	23	72	<10	123	1,233	2,052
Withdrawn	10		<10		<10	21	37
Previous Set Aside	76	<10	<10		13	142	239
Remains Set Aside	120	<10	<10		20	116	258
Rescind in Total	13	<10	<10		<10	25	45
Correctness Affirmed	<10	<10	<10		<10	<10	15
Set Aside	199	10	32		59	611	911
Limited Set Aside	23	<10	<10		<10	18	50
Not Set Aside – Variance Granted	21		<10		<10	50	80
Not Set Aside	134	<10	21	<10	18	255	433
In Process	<10		<10				<10
2019	778	30	119		206	1,697	2,830
Withdrawn	18		<10		<10	28	53
Previous Set Aside	65	<10	11		16	116	212
Remains Set Aside	29	<10	<10		<10	83	127
Rescind in Total	36	<10	<10		<10	57	110
Correctness Affirmed	14		<10			14	29
Set Aside	313	15	47		99	867	1,341
Limited Set Aside	13	<10	<10		11	20	51
Not Set Aside – Variance Granted	22		<10		<10	58	90
Not Set Aside	275	<10	32		60	459	833
In Process	<10					<10	<10
<b>Grand Total</b>	<b>1,378</b>	<b>53</b>	<b>191</b>	<b>&lt;10</b>	<b>329</b>	<b>2,930</b>	<b>4,882</b>

## Section 3: Administrative Hearings and Outcomes

If a reconsideration is requested and the final outcome is that the disqualification is neither rescinded or set aside, the disqualified individual has the right to request a fair hearing or a contested case hearing under certain circumstances. Fair hearing and contested case hearing descriptions and data are broken out in the two subsections below.

### Fair Hearing

If an individual is disqualified solely on the basis of a preponderance of evidence, and if it is their first time receiving this disqualification, the disqualified individual can request a fair hearing to determine the correctness of the disqualifying determination. If an individual is disqualified on the basis of a preponderance of evidence and a conviction or admission, then a fair hearing can be requested, but the scope of the fair hearing is limited to only the correctness of the disqualification based on a preponderance of the evidence and whether the individual poses a risk of harm. Finally, if an individual is disqualified for the first time on the basis of serious or recurring maltreatment and they request a fair hearing of the maltreatment determination and the disqualification, then the scope of the fair hearing includes both the maltreatment determination and the disqualification based on that determination ([Minn. Stat. sec. 245C.27](#)).

[Table 3](#) below shows the fair hearing result for all determinations that received a fair hearing request. The determinations in [Table 3](#) are a subset of determinations in [Table 2](#) that did not result in an eligible or set aside determination. The possible outcomes for a fair hearing represented in the table are described below:

1. **Dismissed:** Dismissed by Human Services Judge. Reasons may include lack of jurisdiction, failure to appear, withdrawal of the appeal, or due to a settlement by the parties.
2. **Correctness Affirmed:** The disqualification is found to be correct and is affirmed. This status often applies to disqualifications that are bars to set aside, or where the disqualified individual is electing to only challenge correctness.
3. **Rescind in Part:** One or more, but not all, of the disqualifying crimes or conduct are rescinded. The individual remains disqualified based on the part that was not rescinded.
4. **Rescind in Total:** All of the disqualifying crimes or conduct for a determination are rescinded. The individual becomes eligible to provide services without restriction.
5. **Not Set Aside:** The risk of harm determination from the reconsideration is affirmed and the disqualification remains not set aside.
6. **Set Aside:** The risk of harm determination from the reconsideration is changed and the disqualification is set aside. The individual remains disqualified but their disqualification is set aside for the specified program.

Since there was a relatively low number of fair hearings for determinations completed in 2018 and 2019, [Table 3](#) does not break determinations out by race/ethnicity, gender, or year as this would potentially provide identifying information and produce many categories with a count reported as “<10”. Instead, [Table 3](#) breaks out all determinations completed in 2018 and 2019 with a Fair Hearing by the Fair Hearing outcome.

Table 3: Count of determinations with a fair hearing requested by outcome 2018-2019

Fair Hearing Outcome	Count of Determinations
Dismissed	16
Correctness Affirmed	<10
Set Aside	<10
Not Set Aside	31
Grand Total	52



## Contested Case Hearing

Contested case hearings are available for individuals whose disqualifications impact a license, and employees of a public employer. A contested case hearing can result in a change to either the correctness or risk of harm determination made as part of the reconsideration process ([Minn. Stat. sec. 245C.28](#)). The potential outcomes of a contested case hearing are the same as the potential results of a fair hearing above. [Table 4](#) shows the contested result for all determinations that received a contested case hearing request. The determinations in [Table 4](#) are a subset of determinations in [Table 2](#) that did not result in an eligible or set aside determination.

Since there was a relatively low number of contested case hearings for determinations completed in 2018 and 2019, [Table 4](#) does not break determinations out by race/ethnicity, gender, or year as this would potentially provide identifying information and produce many categories with a count reported as “<10”. Instead, [Table 4](#) breaks out all determinations completed in 2018 and 2019 with a Contested Case Hearing by the Contested Case Hearing outcome.

Table 4: Count of determinations with a contested hearing requested by outcome 2018-2019

Contested Case Outcome	Determination Count
Not Set Aside	<10
Rescind in Total	<10
Grand Total	<10

## Section 4: Further appeals and outcomes

### District Court Appeals

If the fair hearing results in a disqualification affirmed or not set aside, the individual has the right to appeal the fair hearing determination to the district court under Minn. Stat. sec. 256.045. The district court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the agency decision under Minn. Stat. sec. 14.69 if the substantial rights of the petitioner may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are in violation of constitution provisions; in excess of statutory authority or jurisdiction of the agency; made upon unlawful procedure; affected by other error of law; unsupported by substantial evidence in view of the entire record as submitted; or arbitrary or capricious. There were no District Court Appeals in the time frame of this Overview.

### Minnesota Court of Appeals

Multiple procedural paths can lead to an appeal with the Minnesota Court of Appeals. They include:

1. If a disqualification is based on a conviction, admission, conclusive maltreatment, or conclusive preponderance of evidence determination, and the reconsideration request was affirmed or not set aside, then the individual may file a certiorari appeal to the Minnesota Court of Appeals.
2. If the district court appeal discussed above was affirmed, then the individual has the right to appeal to the Minnesota Court of Appeals.
3. If the contested case hearing results in a disqualification affirmed or not set aside, the individual may file a petition for a writ of certiorari appeal to the Minnesota Court of Appeals.

The court of appeals may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision under Minn. Stat. sec. 14.69 if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are: in violation of constitutional provisions; or in excess of the statutory authority or jurisdiction of the agency; or made upon lawful procedure; or affected by other error of law; or unsupported by substantial evidence in view of the entire record as submitted; or was arbitrary and capricious. There were fewer than 10 Court of Appeals hearings on determinations completed in the time frame of this overview and all were withdrawn.

### Minnesota Supreme Court

If the court of appeals affirms the agency's decision, then the individual has the right to appeal to the Minnesota Supreme Court. The Minnesota Supreme Court's review of the record is limited to questions affecting the jurisdiction, the regularity of the proceedings, and whether the determination was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it. There were no Supreme Court Appeals in the time frame of this overview.

## Section 5: Reconsideration requests by outcome and provider type

[Section 5](#) breaks out reconsideration data by provider type. [Table 5](#) below provides the same data as [Table 1](#) for all genders, but adds in the provider type and agency. To make the tables more readable, [Table 5a](#) and [Table 5b](#) provide the same data in [Table 5](#) for males only and females only respectively.

Table 5: Count of disqualifying determinations by reconsideration request by race/ethnicity, provider type, and year – All genders

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2018	4,743	2,879	7,622
Minnesota Department of Corrections	12	12	24
DOC Children's Residential Facility	<10	<10	12
DOC Children's Residential Facility - Title IVE	<10	<10	11
DOC Corporate Child Foster Care		<10	<10
Minnesota Department of Health	1,603	1,080	2,683
Board and Lodging	80	92	172
Boarding Care	<10	<10	<10
Boarding Care-Home Care Provider		<10	<10
Home Care Provider	829	416	1,245
Hospice Care	<10	<10	<10
Hospital	103	131	234
Hospital-Nursing Home	18	18	36
MDH Educational Program	106	107	213
MDH Temporary Employment/Personnel Agency	100	15	115
Nursing Home	336	260	596
Nursing Home-Boarding Care	<10	<10	<10
Outpatient Surgery		16	16
Supplemental Nursing Services Agencies	22	16	38

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	3,128	1,787	4,915
Adult Day Care Center	21	20	41
Children's Therapeutic Services and Supports	<10	<10	<10
Corporate Adult Foster Care	<10	<10	<10
Detoxification Program	10	16	26
DHS Child Foster Care	112	169	281
DHS Children's Residential Facility	<10	16	23
DHS Children's Residential Facility - Title IVE	15	<10	21
DHS Corporate Child Foster Care	48	42	90
DHS Educational Program	20	32	52
DHS Temporary Employment/Personnel Agency	<10	<10	10
Family Adult Foster Care	<10	<10	12
Fiscal Management Services	<10	<10	<10
Home and Community-Based Services	875	692	1,567
Housing Support	29	33	62
Licensed Child Care Center	158	91	249
Personal Care Provider Organization	1,451	248	1,699
Private Child Caring or Placing Agency		<10	<10
Residential Mental Health	<10	12	16
Residential Services-Physically Disabled	<10		<10
Sex Offender Treatment Program		<10	<10
Substance Use Disorder Treatment	146	253	399
Transportation Provider	93	44	137
Unlicensed Consumer-Directed Community Supports	113	82	195
Unlicensed Home and Community-Based Services	<10	<10	<10

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2019	8,708	4,220	12,928
Minnesota Department of Corrections	26	10	36
DOC Children's Residential Facility	13	<10	16
DOC Children's Residential Facility - Title IVE	11	<10	16
DOC Corporate Child Foster Care	<10	<10	<10
Minnesota Department of Health	3,132	1,616	4,748
Board and Lodging	146	92	238
Boarding Care	<10	<10	<10
Boarding Care-Home Care Provider		<10	<10
Contingency Staffing		<10	<10
Home Care Provider	1,675	685	2,360
Hospice Care	13	<10	17
Hospital	188	212	400
Hospital-Nursing Home	25	21	46
MDH Educational Program	171	137	308
MDH Temporary Employment/Personnel Agency	142	33	175
Nursing Home	676	367	1,043
Nursing Home-Boarding Care	<10	<10	<10
Outpatient Surgery	<10	12	20
Supplemental Nursing Services Agencies	83	42	125

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	5,550	2,594	8,144
Adult Day Care Center	20	<10	28
Certified License-Exempt Child Care Center	16	14	30
Children's Therapeutic Services and Supports	<10	<10	<10
Corporate Adult Foster Care	<10	<10	12
Detoxification Program	<10	16	25
DHS Child Foster Care	151	227	378
DHS Children's Residential Facility	14	11	25
DHS Children's Residential Facility - Title IVE	21	23	44
DHS Corporate Child Foster Care	87	73	160
DHS Educational Program	36	43	79
DHS Temporary Employment - Child Care		<10	<10
DHS Temporary Employment/Personnel Agency	18		18
Family Adult Foster Care	<10	10	17
Fiscal Management Services	146	116	262
Home and Community-Based Services	1,747	869	2,616
Housing Support	27	28	55
Legal Non-Licensed Family Child Care		<10	<10
Licensed Child Care Center	242	146	388
Licensed Family Child Care	12	20	32
Personal Care Provider Organization	2,522	430	2,952
Private Child Caring or Placing Agency	<10	<10	<10
Residential Mental Health	<10	21	25
Residential Services-Physically Disabled	<10	<10	<10
Sex Offender Treatment Program	<10	<10	<10
Substance Use Disorder Treatment	195	396	591
Transportation Provider	144	57	201
Unlicensed Consumer-Directed Community Supports	106	58	164
Unlicensed Home and Community-Based Services	11	<10	14
Withdrawal Management	<10	<10	<10
<b>Grand Total</b>	<b>13,451</b>	<b>7,099</b>	<b>20,550</b>

Table 5a: Count of disqualifying determinations by reconsideration request by race/ethnicity, provider type, and year – Male

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2018	1,748	807	2,555
Minnesota Department of Corrections	<10	<10	11
DOC Children's Residential Facility	<10	<10	<10
DOC Children's Residential Facility - Title IVE	<10	<10	<10
Minnesota Department of Health	477	302	779
Board and Lodging	52	57	109
Boarding Care	<10	<10	<10
Home Care Provider	185	90	275
Hospice Care	<10	<10	<10
Hospital	47	39	86
Hospital-Nursing Home	<10	<10	11
MDH Educational Program	28	28	56
MDH Temporary Employment/Personnel Agency	38	<10	45
Nursing Home	109	68	177
Nursing Home-Boarding Care	<10		<10
Outpatient Surgery		<10	<10
Supplemental Nursing Services Agencies	<10	<10	<10

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	1,265	500	1,765
Adult Day Care Center	12	<10	18
Children's Therapeutic Services and Supports		<10	<10
Corporate Adult Foster Care	<10	<10	<10
Detoxification Program	<10	<10	12
DHS Child Foster Care	71	76	147
DHS Children's Residential Facility	<10	<10	11
DHS Children's Residential Facility - Title IVE	12	<10	14
DHS Corporate Child Foster Care	18	10	28
DHS Educational Program	11	16	27
Family Adult Foster Care	<10	<10	<10
Fiscal Management Services	<10		<10
Home and Community-Based Services	314	134	448
Housing Support	17	11	28
Licensed Child Care Center	29	<10	34
Personal Care Provider Organization	558	70	628
Residential Mental Health	<10	<10	10
Sex Offender Treatment Program		<10	<10
Substance Use Disorder Treatment	84	84	168
Transportation Provider	70	28	98
Unlicensed Consumer-Directed Community Supports	52	25	77
Unlicensed Home and Community-Based Services	<10		<10



Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2019	2,935	1,278	4,213
Minnesota Department of Corrections	14	<10	20
DOC Children's Residential Facility	<10	<10	<10
DOC Children's Residential Facility - Title IVE	<10	<10	10
DOC Corporate Child Foster Care		<10	<10
Minnesota Department of Health	829	374	1,203
Board and Lodging	92	47	139
Boarding Care		<10	<10
Home Care Provider	362	123	485
Hospice Care	<10	<10	<10
Hospital	68	67	135
Hospital-Nursing Home	<10	<10	13
MDH Educational Program	37	28	65
MDH Temporary Employment/Personnel Agency	54	13	67
Nursing Home	190	73	263
Nursing Home-Boarding Care	<10	<10	<10
Outpatient Surgery		<10	<10
Supplemental Nursing Services Agencies	12	13	25

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	2,092	898	2,990
Adult Day Care Center	14	<10	17
Certified License-Exempt Child Care Center	<10	<10	<10
Children's Therapeutic Services and Supports	<10	<10	<10
Corporate Adult Foster Care	<10	<10	<10
Detoxification Program	<10	<10	12
DHS Child Foster Care	86	121	207
DHS Children's Residential Facility	<10	<10	10
DHS Children's Residential Facility - Title IVE	11	15	26
DHS Corporate Child Foster Care	42	28	70
DHS Educational Program	15	14	29
DHS Temporary Employment/Personnel Agency	<10		<10
Family Adult Foster Care	<10	<10	12
Fiscal Management Services	57	30	87
Home and Community-Based Services	637	273	910
Housing Support	10	14	24
Legal Non-Licensed Family Child Care		<10	<10
Licensed Child Care Center	36	17	53
Licensed Family Child Care	<10	13	21
Personal Care Provider Organization	881	120	1,001
Private Child Caring or Placing Agency		<10	<10
Residential Mental Health	<10	<10	<10
Sex Offender Treatment Program	<10	<10	<10
Substance Use Disorder Treatment	106	161	267
Transportation Provider	107	38	145
Unlicensed Consumer-Directed Community Supports	45	14	59
Unlicensed Home and Community-Based Services	<10		<10
Withdrawal Management	<10	<10	<10
<b>Grand Total</b>	<b>4,683</b>	<b>2,085</b>	<b>6,768</b>

Table 5b: Count of disqualifying determinations by reconsideration request by race/ethnicity, provider type, and year – Female

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2018	2,974	2,053	5,027
Minnesota Department of Corrections	<10	<10	13
DOC Children's Residential Facility	<10	<10	<10
DOC Children's Residential Facility - Title IVE	<10	<10	<10
DOC Corporate Child Foster Care		<10	<10
Minnesota Department of Health	1,120	771	1,891
Board and Lodging	28	35	63
Boarding Care		<10	<10
Boarding Care-Home Care Provider		<10	<10
Home Care Provider	643	325	968
Hospice Care	<10	<10	<10
Hospital	51	90	141
Hospital-Nursing Home	12	13	25
MDH Educational Program	78	79	157
MDH Temporary Employment/Personnel Agency	62	<10	70
Nursing Home	227	188	415
Nursing Home-Boarding Care	<10	<10	<10
Outpatient Surgery		12	12
Supplemental Nursing Services Agencies	15	14	29

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	1,848	1,275	3,123
Adult Day Care Center	<10	14	23
Children's Therapeutic Services and Supports	<10	<10	<10
Corporate Adult Foster Care	<10	<10	<10
Detoxification Program	<10	<10	14
DHS Child Foster Care	40	93	133
DHS Children's Residential Facility	<10	<10	12
DHS Children's Residential Facility - Title IVE	<10	<10	<10
DHS Corporate Child Foster Care	29	32	61
DHS Educational Program	<10	16	25
DHS Temporary Employment/Personnel Agency	<10	<10	10
Family Adult Foster Care	<10	<10	<10
Fiscal Management Services	<10	<10	<10
Home and Community-Based Services	555	548	1,103
Housing Support	12	22	34
Licensed Child Care Center	129	86	215
Personal Care Provider Organization	887	178	1,065
Private Child Caring or Placing Agency		<10	<10
Residential Mental Health	<10	<10	<10
Residential Services-Physically Disabled	<10		<10
Sex Offender Treatment Program		<10	<10
Substance Use Disorder Treatment	62	167	229
Transportation Provider	23	16	39
Unlicensed Consumer-Directed Community Supports	60	57	117
Unlicensed Home and Community-Based Services	<10	<10	<10

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
2019	5,589	2,830	8,419
Minnesota Department of Corrections	12	<10	16
DOC Children's Residential Facility	<10	<10	<10
DOC Children's Residential Facility - Title IVE	<10	<10	<10
DOC Corporate Child Foster Care	<10	<10	<10
Minnesota Department of Health	2,263	1,188	3,451
Board and Lodging	53	44	97
Boarding Care	<10	<10	<10
Boarding Care-Home Care Provider		<10	<10
Contingency Staffing		<10	<10
Home Care Provider	1,298	553	1,851
Hospice Care	<10	<10	<10
Hospital	107	123	230
Hospital-Nursing Home	18	15	33
MDH Educational Program	134	109	243
MDH Temporary Employment/Personnel Agency	87	20	107
Nursing Home	477	273	750
Nursing Home-Boarding Care	<10	<10	<10
Outpatient Surgery	<10	11	19
Supplemental Nursing Services Agencies	71	29	100

Year/Agency/Provider Type	No Reconsideration Request	Reconsideration Requested	Grand Total
Minnesota Department of Human Services	3,314	1,638	4,952
Adult Day Care Center	<10	<10	11
Certified License-Exempt Child Care Center	12	10	22
Children's Therapeutic Services and Supports	<10	<10	<10
Corporate Adult Foster Care	<10	<10	<10
Detoxification Program	<10	10	13
DHS Child Foster Care	65	106	171
DHS Children's Residential Facility	<10	<10	14
DHS Children's Residential Facility - Title IVE	<10	<10	16
DHS Corporate Child Foster Care	43	45	88
DHS Educational Program	21	29	50
DHS Temporary Employment - Child Care		<10	<10
DHS Temporary Employment/Personnel Agency	15		15
Family Adult Foster Care	<10	<10	<10
Fiscal Management Services	89	86	175
Home and Community-Based Services	1,059	571	1,630
Housing Support	17	14	31
Licensed Child Care Center	205	129	334
Licensed Family Child Care	<10	<10	11
Personal Care Provider Organization	1,555	286	1,841
Private Child Caring or Placing Agency	<10		<10
Residential Mental Health	<10	13	16
Residential Services-Physically Disabled	<10	<10	<10
Substance Use Disorder Treatment	87	231	318
Transportation Provider	37	19	56
Unlicensed Consumer-Directed Community Supports	61	44	105
Unlicensed Home and Community-Based Services	<10	<10	<10
Withdrawal Management		<10	<10
<b>Grand Total</b>	<b>8,563</b>	<b>4,883</b>	<b>13,446</b>

[Table 6](#) breaks out the table data on reconsideration outcomes in [Table 2](#) by provider type and agency. Race/ethnicity and gender have been removed from [Table 2](#) as they would create numerous categories that most would either have counts of 0 or less than 10 and would make it difficult to understand differences between provider types. In [Table 6](#), the reconsideration replaces race/ethnicity as columns across the top, and provider type and agency are broken out in the rows down the side.

Table 6: Count of determinations with reconsideration requested or previous set aside considered by year, and outcome, and provider

Year/Agency/Provider Type	Withdrawn	Previous Set Aside	Remains Set Aside	Rescind in Total	Correctness Affirmed	Set Aside	Limited Set Aside	Not Set Aside – Variance Granted	Not Set Aside	In Process	Grand Total
2018	43	281	317	55	56	1,288	71	146	640	<10	2,878
Minnesota Department of Corrections		<10	<10	<10		<10			<10		12
DOC Children's Residential Facility			<10			<10					<10
DOC Children's Residential Facility - Title IVE				<10		<10			<10		<10
DOC Corporate Child Foster Care		<10									<10
Minnesota Department of Health	11	158	78	16	20	574		<10	222	<10	1,080
Board and Lodging		<10	<10		<10	66			14		92
Boarding Care						<10					<10
Boarding Care-Home Care Provider						<10					<10
Home Care Provider	<10	58	20	<10	<10	224		<10	99	<10	416
Hospice Care		<10				<10					<10
Hospital		21	12	<10	<10	74			19		131
Hospital-Nursing Home		<10	<10			10			<10		18
MDH Educational Program	<10	<10	17	<10	<10	63			14	<10	107
MDH Temporary Employment/Personnel Agency		<10	<10		<10	<10			<10		15
Nursing Home	<10	46	22	<10	<10	115		<10	61	<10	260
Nursing Home-Boarding Care		<10							<10		<10
Outpatient Surgery		12			<10	<10					16
Supplemental Nursing Services Agencies		<10				<10			<10	<10	16

Year/Agency/Provider Type	Previous Withdrawn	Set Aside	Remains Set Aside	Rescind in Total	Correctness Affirmed	Limited Set Aside	Set Aside	Not Set Aside – Variance Granted	Not Set Aside	In Process	Grand Total
Minnesota Department of Human Services	32	122	237	38	36	709	71	139	415	<10	1,786
Adult Day Care Center		<10				14		<10			20
Children's Therapeutic Services and Supports				<10		<10			<10		<10
Corporate Adult Foster Care	<10					<10			<10		<10
Detoxification Program		<10	<10		<10	10		<10	<10		16
DHS Child Foster Care	<10			<10	12	27		99	23		169
DHS Children's Residential Facility			<10	<10	<10	<10		<10	<10		16
DHS Children's Residential Facility - Title IVE		<10				<10		<10	<10		<10
DHS Corporate Child Foster Care	<10	<10	<10	<10		21		<10	<10		42
DHS Educational Program					<10	16			14		32
DHS Temporary Employment/Personnel Agency						<10			<10		<10
Family Adult Foster Care				<10				<10			<10
Fiscal Management Services			<10			<10			<10		<10
Home and Community-Based Services	<10	63	176	14	<10	257		16	158	<10	692
Housing Support	<10		<10		<10	25			<10		33
Licensed Child Care Center	<10	<10	11	<10		45		<10	26		91
Personal Care Provider Organization	<10	11	<10	<10	<10	53	71		89		247
Private Child Caring or Placing Agency						<10			<10		<10
Residential Mental Health		<10	<10			<10			<10		12
Sex Offender Treatment Program						<10					<10
Substance Use Disorder Treatment	<10	16	29	<10	<10	152		12	35		253
Transportation Provider	<10	<10	<10		<10	23			10		44
Unlicensed Consumer-Directed Community Supports	<10	<10	<10	<10	<10	35			34		82
Unlicensed Home and Community-Based Services		<10				<10					<10



Year/Agency/Provider Type	Previous Withdrawn	Remains Set Aside	Rescind in Total	Correctness Affirmed	Limited Set Aside	Not Set Aside – Variance Granted	Not Set Aside	In Process	Grand Total		
2019	85	275	190	146	105	1,962	80	185	1,215	10	4,220
Minnesota Department of Corrections			<10			<10			<10		10
DOC Children's Residential Facility			<10			<10					<10
DOC Children's Residential Facility - Title IVE						<10			<10		<10
DOC Corporate Child Foster Care						<10			<10		<10
Minnesota Department of Health	26	157	68	75	41	808		<10	455	<10	1,616
Board and Lodging	<10	<10	<10		<10	58			23		92
Boarding Care						<10					<10
Boarding Care-Home Care Provider									<10		<10
Contingency Staffing					<10						<10
Home Care Provider	12	56	21	32	12	319		<10	238	<10	685
Hospice Care				<10		<10			<10		<10
Hospital	<10	23	15	12	<10	115			39		212
Hospital-Nursing Home		<10		<10		<10			<10		21
MDH Educational Program		11	<10	12	<10	82			26		137
MDH Temporary Employment/Personnel Agency		<10			<10	23			<10		33
Nursing Home	<10	44	24	13	10	167			105	<10	367
Nursing Home-Boarding Care						<10			<10		<10
Outpatient Surgery		<10				<10					12
Supplemental Nursing Services Agencies		<10	<10	<10	<10	19			<10		42

Year/Agency/Provider Type	Previous Withdrawn	Remains Set Aside	Rescind in Total	Correctness Affirmed	Limited Set Aside	Not Set Aside – Variance Granted	Not Set Aside	In Process	Grand Total		
Minnesota Department of Human Services	59	118	120	71	64	1,149	80	182	757	<10	2,594
Adult Day Care Center		<10				<10			<10		<10
Certified License-Exempt Child Care Center			<10			<10			<10		14
Children's Therapeutic Services and Supports						<10			<10		<10
Corporate Adult Foster Care					<10	<10			<10		<10
Detoxification Program	<10		<10		<10	<10			<10		16
DHS Child Foster Care	<10		<10		21	37		125	36	<10	227
DHS Children's Residential Facility	<10					<10		<10	<10		11
DHS Children's Residential Facility - Title IVE	<10	<10	<10		<10	12		<10	<10		23
DHS Corporate Child Foster Care		<10	<10	<10		36		<10	22		73
DHS Educational Program			<10		<10	30			11		43
DHS Temporary Employment - Child Care									<10		<10
Family Adult Foster Care	<10			<10		<10		<10	<10		10
Fiscal Management Services	<10		21	<10	<10	61			27		116
Home and Community-Based Services	16	49	23	41	<10	386	<10	25	319	<10	869
Housing Support					<10	20			<10		28
Legal Non-Licensed Family Child Care									<10		<10
Licensed Child Care Center	<10	<10	<10	<10	<10	97			28		146
Licensed Family Child Care				<10	<10	<10		<10	<10		20
Personal Care Provider Organization	12	13	10	<10	12	115	79		185		430
Private Child Caring or Placing Agency						<10					<10
Residential Mental Health		<10	<10	<10	<10	10			<10		21
Residential Services-Physically Disabled						<10					<10
Sex Offender Treatment Program						<10			<10		<10
Substance Use Disorder Treatment	<10	31	41	<10	10	229		16	61		396
Transportation Provider	<10	<10	10	<10		27			11		57
Unlicensed Consumer-Directed Community Supports	<10		<10	<10	<10	34			19		58
Unlicensed Home and Community-Based Services					<10	<10					<10
Withdrawal Management		<10	<10			<10			<10		<10
<b>Grand Total</b>	<b>128</b>	<b>556</b>	<b>507</b>	<b>201</b>	<b>161</b>	<b>3,250</b>	<b>151</b>	<b>331</b>	<b>1,855</b>	<b>16</b>	<b>7,098</b>

## Additional Notes and Data Definitions

1. Background Study **data sources** can include, but are not limited to, state criminal history, federal criminal history, Minnesota Court Information System (MNCIS), Minnesota child and adult maltreatment registries, and criminal or maltreatment records from other states.
2. An **eligible determination** means the background study subject was **not** determined to have committed a disqualifying crime or conduct in [Minn. Stat. sec. 245C.15](#)
3. A **disqualified determination** means the background study subject was determined responsible for a disqualifying crime or conduct in [Minn. Stat. sec. 245C.15](#)
4. A **disqualification rescinded – determination now eligible** determination means the initial determination was disqualifying and became eligible upon appeal.
5. A **background study provider application** is the record created by the provider when submitting a background study request. Background study provider applications can be created by providers at any time. If there is already another background study determination in process for the same person, the new background study application will connect to the in process background study determination (provided the background study requirements are met). In addition, existing background study determinations can transfer to new background study provider application submissions. The connection of background study provider applications to existing background study determinations creates efficiencies for study subjects and providers.
6. For an **undetermined determination**, DHS reviews information that was received but does not make an eligibility or disqualification decision on the determination (hence the determination is “undetermined”).
7. **Active roster** means the list of individuals specific to an entity who have been determined eligible to provide services for the entity and who the entity has identified as affiliated. See [Minn. Stat. sec. 245C.02 subd. 17a \(b\)](#)
8. A **rapback notification** (Record of Arrest and Prosecutions Back) is a notification DHS receives about new potentially disqualifying information for a background study subject with an active provider roster affiliation.
9. An **eligible rapback determination** means that the information received through the rapback process was found to belong to the study subject, but after review was determined to not be a disqualifying crime or conduct.
10. The Race/Ethnicity categories captured in the Background Studies system and used in the summarized data above are collected for purposes of a background study fingerprint study. These categories are determined by the FBI CJIS policy and must be used for fingerprint background studies. DHS does not collect other race/ethnicity data that would allow for different or more detailed break outs of racial or ethnic groups.
11. **Risk of Harm** is the assessed immediate risk of harm the determination subject poses to the persons receiving services that the subject will have direct contact with or direct access to.
  - a. **Low:** It is determined that “an individual studied does not pose a risk of harm that requires continuous, direct supervision”. A low risk of harm individual is allowed to continue providing services during their reconsideration request period and has 15 days to request a reconsideration. ([Minn. Stat. sec. 245C.17 subd. 3](#))
  - b. **Medium:** It is determined that “an individual studied poses a risk of harm that requires continuous, direct supervision”. A medium risk of harm individual is allowed to continue providing services under continuous and direct supervision during their reconsideration request period and has 30 days to request a reconsideration. ([Minn. Stat. sec. 245C.17 subd. 3](#))
  - c. **High:** It is determined that “an individual studied poses an imminent risk of harm”. A high risk of harm individual must be immediately removed from service and has 30 days to request a reconsideration. ([Minn. Stat. sec. 245C.17 subd. 3](#))
  - d. **Not Applicable:** The risk of harm category in cases where an individual is not allowed to provide services until either an eligible determination, a set aside, or a variance has been obtained
12. A **conviction disqualification** is based on a conviction, regardless of whether it was preceded by a plea or a trial.
13. An **admission disqualification** is based on guilty pleas without convictions, guilty pleas with stays of adjudication, or admissions in juvenile court without adjudication.
14. An **Alford Plea disqualification** is based on Alford pleas without convictions or with stays of adjudication, or Alford pleas in juvenile court without adjudication. An Alford Plea is similar to an out of state offense with a no contest plea.
15. A **preponderance of disqualification** is based on a determination by DHS that it is more likely than not that investigation, court, maltreatment, and other relevant records support a finding that the subject committed disqualifying conduct
16. A **maltreatment disqualification** is based on a determination by DHS that records of substantiated maltreatment or substantiated failure to report maltreatment meet the definitions of serious and/or recurring in [Minn. Stat. sec. 245C.02](#)

17. An **Involuntary Termination of Parental Rights disqualification** is based on terminations of parental rights under the standards of [Minn. Stat. sec. 260C.301 subd. 1\(b\)](#) or subd. 3
18. An **administrative disqualification** is based on a stipulation or finding by a judge that the subject is disqualified for wrongfully obtaining assistance under [Minn. Stat. sec. 256.98 subd. 8](#)