

# How to Fight Your SSI or Social Security Disability Denial

---

## Introduction

This publication explains what you can do if the Social Security Administration (SSA) denies your application because they say you are not disabled. If you have been getting benefits and are notified that they will stop, see our publication [How to Fight a Termination of Supplemental Security Income \(SSI\) or Social Security Disability When SSA Decides You are No Longer Disabled](#).

## How can I appeal if my initial application is denied?

If your application for Supplemental Security Income (SSI) or Social Security Disability (SSD) benefits has been denied, you have to the right to ask SSA to reconsider its decision. (You will find that persons call SSD benefits a variety of names, including Disability Insurance Benefits, Social Security Disability Insurance, SSDI, SSA, and Title II benefits.) **Many SSI and Social Security Disability applications are denied but later approved on appeal.** If you ask for reconsideration, Social Security will review its decision and approve or deny your claim. You must fill out a Request for Reconsideration form which you can get at your local Social Security office, by calling their toll-free phone number or by accessing their website (see below). They must receive the form within **60 days plus five days for mailing** of the date you received the notice of denial, or you must have a good reason if you request reconsideration late.

## What can I do if I did not file my appeal in time?

If you had a good reason for failing to file the request for reconsideration in time, you may

still be able to file if you had a good reason for why you were unable to file in time. This is called a *Request for Good Cause*. Fill out a Statement of Claimant form (<http://www.ssa.gov/online/ssa-795.pdf>) asking for good cause (example: "I request good cause for late filing of my appeal") and explaining why you were unable to file the appeal on time and either bring it or mail it to your local Social Security office. You may also pick up a copy of this form at your local social security office. Social Security will then decide if you had a good reason to file the appeal late. If you did, they will process the appeal as if it was filed on time.

## How can I prove that I am disabled?

Many SSI or Social Security Disability claims are denied because the Social Security Administration (SSA) believes that the person is not disabled. In the denial notice, Social Security should explain generally why they denied your claim and list all of the places where they requested and received medical evidence. If your claim was denied because Social Security determined you are not disabled, first make sure Social Security had all the information they needed to make that decision. You may ask to see the medical evidence in your file. If you have a regular doctor who has not sent a letter or report to SSA, ask your doctor to do so. If your doctor did submit a report, ask her/him to make an additional one that says why your doctor thinks that you are disabled and not able to work. Your own doctor's opinion is very important in proving your disability. SSA may have sent you to see a doctor who has never seen you before. If this happened in your case, ask SSA to order and pay for another evaluation from your own

doctor if he believes you are disabled and is willing to do an evaluation. If you can get a second evaluation which shows you are disabled, SSA may change its decision in your case. You may also get letters from counselors, ARNPs, past employers, and friends and family if they are able to describe your functional limitations if those limitations have an effect on your ability to work. Social Security is required to take into consideration information from other people regarding your level of functioning (example: what you can and cannot do as a result of your disabling impairment) when making their decision.

### **What can I do if reconsideration is denied?**

If reconsideration is denied, you may ask for a **hearing before an Administrative Law Judge (ALJ)**. You must file a hearing request within 60 days plus five days mailing of the date you received notice of the denial. You may file the hearing request at your local Social Security office. Or, you can call SSA and have the request for hearing form mailed to you, then fill it out and mail it back to them. You can reach SSA at its toll-free phone number 1-800-772-1213 from 7:00 am to 7:00 pm; TTY 1-800-325-0778. You can also get a hearing request form from the SSA website, at [www.ssa.gov](http://www.ssa.gov). Your hearing will probably place many months after the date of your request. The ALJ will notify you at least 20 days before your hearing. If you have additional evidence, such as new medical records which show that you are disabled, you should give them to the ALJ as soon as they are available. You may have someone, a lawyer or an experienced paralegal, represent you at the hearing or you may represent yourself. Generally, represented people do better at the hearings. If you would like a lawyer who often represents people in Social Security or SSI

claims, contact your local bar association or call the National Organization for Social Security Claimants Representatives referral line at 1-800-431-2804. Fees are regulated by the Social Security Administration and are paid to your representative only if you win your case. Representatives are not allowed to charge more than 25% of your back benefits (up to a maximum of \$6,000). You will also be required to pay any costs that the representative incurs in preparing your case (example: the cost of medical records). Be sure to get an explanation of the fee arrangement from the lawyer before hiring her or him.

### **Should I reapply or appeal and wait for my hearing?**

Because it can take many months before a hearing is held, some individuals choose not to appeal a reconsideration denial and file a new application. Filing a new application, instead of appealing and requesting a hearing, may prevent you from getting all the benefits you are entitled to. Additionally, in certain cases involving SSD benefits, failing to appeal can result in your inability to get SSD benefits even if you reapply. If you believe you are still disabled and unable to work, it is advisable to request a hearing.

### **How can I represent myself at the hearing?**

You may also choose to represent yourself at your hearing. If you do, you should get a copy of your file on an encrypted CD. The evidence on the CD is called the "exhibit file." It contains the only information that the judge has about you. If you know of other medical information that is not in your file, such as hospital records, therapist's notes, doctor's records, or x-ray reports, get copies of them to the judge before the hearing if possible. (Note: If you have trouble getting your medical records, ask for

the publication about [Reviewing and Getting Copies of Your Medical Records](#). If you believe your medical records are wrong, see [What Can I Do if My Medical Records Are Wrong?](#))

Your hearing is the only time during the SSI or Social Security Disability application process you will meet the decision maker in person. For this reason it is important to be sure that you present your whole case: everything about your disability and its effects and why your disability keeps you from being able to work. Tell all of this to the judge. You may want to take

someone such as your spouse or a friend to testify about how your disability affects you in your day-to-day activities.

When you prepare for your hearing, make a list of things you want to tell the judge and a list of things you want your witnesses to tell the judge. Also, if you think there is incorrect information in the file, you should tell the judge at the hearing why you think the information is incorrect. The judge will make a decision and notify you by mail within a few months of his or her decision.

---

**This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.**

**This information is current as of the date of its printing, July 2013.**

**© 2013 Northwest Justice Project — 1-888-201-1014**

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial use only.)