

Appeal a Social Security denial

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Social Security might turn down (deny) your application for SSI or disability benefits because they believe you're not disabled, or you don't meet financial requirements. Learn the process to fight (appeal) a Social Security denial through reconsideration and hearing.

1. Step-by-step

If the Social Security Administration (Social Security) denies your application for SSI or Social Security Disability (SSD) benefits, they'll let you know in writing about the denial. Then you can appeal Social Security's decision to deny your application.

Here's the appeal process:

1. **Ask Social Security to review (to reconsider) its initial decision.** You may fill out a Request for Reconsideration form from your nearest Social

Security Office (<https://secure.ssa.gov/ICON/main.jsp>), get one online (<https://www.socialsecurity.gov/forms/ssa-561.pdf>), or file an appeal on their website (<https://www.ssa.gov/benefits/disability/appeal.html>).

You must make your reconsideration request within **60 days** of the date on the notice (plus 5 days for mailing) **or** have a good reason to make a late request.

To ask for good cause to file late, you must fill out and submit a Statement of Claimant form (<http://www.ssa.gov/online/ssa-795.pdf>), Form SSA-795 (**example**: "I request good cause for late filing of my appeal") and explain why you couldn't appeal on time. Social Security will decide if your reason for filing late is a good one. If so, they'll process the appeal as if you filed it on time.

2. **Review your Social Security file** as soon as you can. Call 1-800-772-1213 to ask for your local Social Security office number. Then call your local office to schedule this. Or have Social Security make a copy of your file on an encrypted CD.

The evidence in the paper file or on the CD is the only information the judge has about you.

Make sure your file has the names and contact info for all your doctors, therapists, counselors, or anyone else with information about your disability.

3. Decide what information might help Social Security change its decision and give you benefits. Give them that information.

You may have a relative, friend, or lawyer help review your file, and get more evidence.

4. **Wait for Social Security to notify you** about their decision on reconsideration after their case review.

If Social Security doesn't change its decision after reconsideration, you can fill out and submit Social Security form #HA-501 (<https://www.ssa.gov/forms/ha-501.pdf>) to **ask for a hearing before an Administrative Law Judge (ALJ)**. You must do so **within 60 days** of the date on the denial notice. You can submit your hearing request to your nearest Social Security office (<https://secure.ssa.gov/ICON/main.jsp>) in person, by certified mail, or by fax.

The hearing will take place many months after you ask for it. The ALJ will tell you the hearing date at least **75 days** beforehand.

5. At least **5 business days** before your hearing, you must **give or at least tell the ALJ about any additional evidence that you want the ALJ to consider**. If you don't do this in time, generally you must have a good reason for your lateness, such as a physical, mental, and/or educational limitation, or circumstances beyond your control.

You can also **subpoena a witness to the ALJ hearing**. Generally, you must let the ALJ know **at least 10 business days** before the hearing that you want the ALJ to issue a subpoena.

A subpoena is a written order requiring a witness to come to a hearing to give testimony. The subpoena will have the information about the hearing date, time and place so your witness will know when and where to go.

If the witness needs to take off from work to come to your hearing, they can show the subpoena to their employer.

6. Try to find someone to represent you at your hearing. You can have someone like a lawyer or paralegal represent you. You can also represent yourself.

If you want a lawyer with experience in Social Security claims, contact your local bar association or the National Organization for Social Security Claimant Representatives (<http://www.nosscr.org/>) for a referral. Your lawyer will get paid only if you win your case. Lawyers can only charge up to 25% of your back benefits, up to \$9,200.

You must pay any costs the lawyer incurs in working on your case, such as, for example, the cost of medical records. Ask the lawyer to explain the fee arrangement, in writing, if possible, before you hire them.

7. Get ready for your hearing. If you represent yourself at your hearing, you must get a copy of your hearing file. The Office of Hearings Operations (OHO) will send you a letter when your file is ready for your review.

Call the 1-800 number listed at the top of the letter to schedule an appointment to copy the file at the hearing office.

As your hearing date gets closer, make a list of what you want to tell the judge and what you want your witnesses to tell the judge.

8. Go to your hearing.

9. Wait to get a decision. The ALJ will mail you a written decision within a few months. If it isn't favorable, the decision notice will tell you how to appeal it to the Appeals Council.

2. Proving disability

If Social Security decided that you don't qualify for benefits because you don't meet their definition of disability, they should explain in their notice why they don't believe you're disabled. The notice should also list all places they asked for and got medical evidence from.

When you review your Social Security file, make sure they had all the information they needed to decide if you have a disability. If you know about other medical proof that isn't in your file, such as hospital or doctor's records, therapist's notes, or x-ray reports, get copies or summaries of them to give to the ALJ.

If you have a regular doctor who hasn't already sent Social Security a letter or report, ask the doctor to do so now. If your doctor did submit a report, ask the doctor to make another one explaining why they think you have a disability that makes you unable to work. Your own doctor's opinion can be very important in proving your disability.

Social Security may have you evaluated by a doctor you've never seen before instead of your own provider. If your own doctor believes you have a disability and will do an evaluation, ask Social Security to order and pay for another evaluation from your own doctor.

You can also get letters from counselors, ARNPs, past employers, and friends and family if they can describe your functional limitations and how those limitations affect your ability to work. Social Security must take into consideration information from other people about what you can and can't do due to your disability (your level of functioning) when making its decision.

If you're appealing the denial of your Social Security disability or SSI application, you can get a free copy of your medical record once every 2 years

(<http://app.leg.wa.gov/RCW/default.aspx?cite=70.02.030>).

Learn more about getting copies or correcting information in your medical records if you believe the information in them is wrong.

3. Prepare for hearing

Make a list of everything you want to tell the judge and everything you want your witnesses to tell the judge.

If you think there's incorrect information in your Social Security file, you must be ready to tell the judge at the hearing why it is wrong.

4. Hearing

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

You and your witnesses should explain how your disability keeps you from working and affects your daily activities. Your witnesses can either answer your questions or speak directly to the judge about you. The ALJ will ask questions of you and your witnesses.

A vocational expert may be at your hearing. This expert gives their opinion about what jobs you can perform given your functional limitations. This is why you must explain at the hearing what you can and can't do.

5. Reapply

It can take a long time for Social Security to schedule your hearing, and longer still to get a hearing decision.

You could decide to apply again (to reapply) instead of appealing a reconsideration denial. There's no rule that says you can't this.

If you decide to drop your appeal, you must let Social Security know that in writing. Keep a copy of what you send them for your own records.

You may reapply any time. Try to talk to a lawyer before deciding to file a new claim or dropping your appeal.

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