

# Fight an ABD denial or termination for medical reasons

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Learn about when you can get this state assistance, and what to do if you lose it.

## **What is the ABD program?**

The Aged, Blind, or Disabled (ABD) program (<https://www.dshs.wa.gov/esa/community-services-offices/aged-blind-or-disabled-cash-program>) provides medical coverage and a small monthly cash grant **if any** of these apply to you:

- You're age 65 or over
- You're blind or you have a disability.

It's a program run by DSHS.

## **Why might DSHS deny or stop my ABD?**

The agency might decide that your medical condition has improved to the point that you no longer meet the medical requirements for ABD. That is, you

no longer meet their legal definition of disabled. DSHS defines "disabled" as having physical or mental impairments severe enough that they keep you from working for at least a year.

If DSHS denies you ABD because you have too much income or resources, or for any other non-medical reason, you should read about other types of DSHS denials instead.

You should read about accommodations if you need help getting or keeping benefits because you:

- Have a disability
- Have problems reading or writing, speaking, or understanding English
- Have a history of drug or alcohol use, and/or
- Other problems

It has general information about what kind of help may be available to you.

## **What if I disagree with DSHS?**

You can do any or all of these:

1. Ask for an administrative hearing.
2. Ask a DSHS supervisor to review and explain the decision.
3. Re-apply.

We recommend you ask for a hearing while also pursuing either the second or third option. You can try more than one option at the same time.

If DSHS is going to deny your ABD application, they must send you a written denial notice within **45 days** after you applied. If they don't send you a notice within **45 days**, you should ask for an administrative hearing for a decision

about whether you can get ABD.

## **I asked for a hearing. Now what?**

1. Contact the Administrative Hearing Coordinator (AHC) at the local DSHS office. The AHC represents DSHS in the hearing. Your case might settle beforehand if you can show that DSHS made a mistake or if you can give DSHS more complete medical information.
2. Make an appointment with the AHC to look at your file and discuss your case. Get copies of all medical reports and other documents DSHS used and created in making and explaining its decision.
3. The DSHS notice denying or terminating ABD should give at least one Washington Administrative Code (WAC) rule supporting their decision. Ask the AHC for any other rules they relied on. The ABD rules are in WAC Chapter 388-449 (<http://apps.leg.wa.gov/wac/default.aspx?cite=388-449>)

Ask the AHC:

- To explain anything that you don't understand about DSHS's decision.
- What evidence you could give the AHC that would change DSHS' decision. If you get them that evidence, DSHS may give you ABD without a hearing. You should also give a copy of any of this evidence to the ALJ before the hearing.
- Why your current medical information isn't enough to prove you have a disability and cannot work, and what other information you need to prove it.

If you can't change the AHC's mind, or the AHC never calls you back, you can ask to talk to the supervisor or administrator.

If DSHS still doesn't agree with you that you should get or keep getting ABD, you'll need to go to the hearing.

## **How do I prove that DSHS was wrong, and I should get ABD?**

After you apply for ABD, DSHS reviews your medical and vocational information. It's usually on DSHS evaluation forms from doctors who examined you.

DSHS uses a 5-step "Sequential Evaluation Process" (SEP) form. You must figure out what parts of the evaluations, and what step of the SEP, show why DSHS is denying or terminating your benefits.

If you think any doctor who did an evaluation for DSHS may help you on any point DSHS told you is important to the decision, ask the doctor for a letter of support. You might be able to get proof DSHS needs from your regular doctor, psychologist, nurse practitioner, or mental health worker.

If you're a client of the Division of Vocational Rehabilitation (DVR), (<https://www.dshs.wa.gov/dvr>) ask for copies of medical or vocational information in your DVR file that may help.

## **I'm not happy with the evaluation the doctor DSHS chose did. Can I get another one?**

If you believe more medical evaluations would prove your case, you can ask DSHS to approve and pay for another evaluation.

You must give a good reason for needing it. For example:

- DSHS might not have gotten evaluations of all your medical problems that they know about.

- You might have a past medical problem you believe still keeps you from working, that no one has evaluated yet. Maybe an evaluation mentions medical problems outside the doctor's expertise or recommends evaluations that DSHS did not order for you.

## **What if DSHS will not pay for more tests?**

Call the OAH. Ask for a pre-hearing conference. At that conference, you can ask the ALJ to order DSHS to pay for a second evaluation.

If the ALJ won't do this, try to get one from another doctor yourself. Try a doctor you have seen before. Ask your doctor to use DSHS's evaluation form.

Ask DSHS for blank forms to bring to your doctors or () print them yourself from the DSHS website (<https://www.dshs.wa.gov/office-of-the-secretary/forms>). Form 13-021 is for physical conditions. Form 13-865 is for mental health conditions.

You can also ask the ALJ at the hearing to order DSHS to pay for more evaluations. Getting more evaluations may help you eventually settle or win.

## **What are some hearing tips for trying to get or keep ABD?**

You should testify at the hearing about how your **medical problems limit** what you can do.

**Give examples** from your daily life. You should especially give examples of situations where you worked or tried to work.

You can have people who **know you well testify** to what you can and cannot do.

## **When and why do I ask for explanation and review?**

Before or after asking for a hearing, you can ask your DSHS worker to **explain** more about the decision to deny, terminate or reduce your assistance.

You may learn DSHS had wrong or was missing information. If that's the case, try to give DSHS the correct or missing information.

If you need help getting that information, you can ask the worker. If you must pay to get the information, ask DSHS to pay, or if DSHS will accept other proof that you don't need to pay to get.

You can also ask the DSHS worker's supervisor for a meeting to **review** the decision to deny, terminate or reduce benefits. If you write to the supervisor, the supervisor must write back within 10 days. If that doesn't change the decision, you can write to the head (the *administrator*) of the local DSHS office. The administrator must write back to you in **10 days**.

If you disagree with what the worker, supervisor, and administrator decide, the matter is final *unless* you also ask for or have asked for a hearing.

### **Can I appeal the explanation and review?**

**No.** There is no more appeal unless you also ask for an administrative hearing. The 10- and 90-day deadlines for continued benefits and appeal run while you work with DSHS.

Even if it seems like DSHS will fix your case, ask for a hearing just in case. You can withdraw the hearing request if things work out.

### **Should I re-apply?**

Yes, if one of these is true:

- You think DSHS was right to deny you when they did. But your situation has since changed. You believe you're eligible to get benefits now.
- You have more information that might change DSHS' decision. Your DSHS worker or supervisor will only look at your new info if you re-apply. You can re-apply while also trying to use the new information in your administrative hearing.

You can re-apply for benefits any time. You can re-apply even if you've asked for a hearing.

The approval of a new application probably will *not* go back to the date you first applied or DSHS first denied you.

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