

# **Appeal an SSI or a Disability termination**

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Social Security might end (terminate) your SSI or disability benefits because they say you're no longer disabled, or you no longer meet financial requirements. Learn the process for fighting (appealing) a Social Security termination through reconsideration and hearing.

## **1. Review medical condition**

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The Social Security Administration (Social Security) regularly reviews your medical condition to see if you still meet their disability standards. They call this process a continuing disability review (CDR).

Social Security will send you a notice asking you to go to the local office. They'll ask you about how your physical and/or mental impairments still affect you. You must give Social Security a list of your doctors and all the medications you take.

If Social Security believes your medical condition has improved, they'll send you a written notice saying your benefits will end (terminate). Then you can appeal Social Security's decision.

If you start the appeal process in time, you can keep getting your full benefit amount while you pursue your appeal.

## **2. Step-by-step**

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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 request reconsideration **within 10 days** of the date on the notice to keep getting your full benefits during the reconsideration process. If you don't want to keep getting continued benefits, 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. If Social Security decides your reason for filing late is a good one, 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.**

**Make sure your medical records in your Social Security file are up to date.** If not, submit copies of your current records, or sign an authorization, #SSA-827, to let Social Security get the records directly (<https://www.ssa.gov/forms/ssa-827.pdf>).

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

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

4. **Go to your formal or informal conference, if you chose one of these** as part of your written reconsideration request.

**If not, 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.

If you ask for an ALJ Hearing **within 10 days** of the date on the disability hearing officer's decision, you can keep getting your full benefit amount during the administrative hearing process.

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.

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 make 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.

### 3. Proving disability

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If you're appealing Social Security's decision that you're not disabled now, read the termination notice carefully. Social Security should explain in their notice how

your condition has improved and list all places where they requested and got medical evidence.

When you review your Social Security file, make sure Social Security had all the information they needed to decide if you still have a disability. If you know about other existing medical proof that's not in your file, such as hospital or doctor's records, therapist's notes, or x-ray reports, get copies or summaries of them 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 sent you to be evaluated by a doctor you've never seen before instead of sending you to your own provider. If this happens, and 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 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.

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

## 4. Conference choices

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As part of your reconsideration request you can choose to have an in-person meeting with Social Security called a Formal Conference to try to resolve your reconsideration request.

You can choose an Informal Conference instead, but you can't bring other people with you to an informal conference. If you're more comfortable with talking to

Social Security in person, choose the formal conference. Then a relative, friend, or lawyer can help you give evidence, including testimony, that you're still disabled. You can also submit medical records.

If Social Security turns down (denies) your reconsideration request after this, you can still ask for a hearing before an Administrative Law Judge.

## 5. Prepare for hearing

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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.

## 6. Hearing

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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.

## 7. Overpayment and waiver

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The downside of keeping the full amount of your benefits while you pursue your appeal is that if you lose, you must pay back all the benefits you received. Social Security will keep 10% of your SSI check each month towards the overpayment. If you were getting Social Security Disability, they will keep all of each month's check until the overpayment is paid back.

If you can't afford to pay back the overpayment, you can ask Social Security to cancel (to waive) the overpayment or to let you pay back less each month.

## 8. Reapply

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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 do this. But you can't do both. You should probably consider how strong your case is and whether you'd be facing an overpayment if you lose.

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. If you drop your appeal, you may lose benefits or other important rights. Try to talk to a lawyer before deciding to file a new claim or dropping your appeal.

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