

# How to Fight Your SSI or Social Security Disability Denial

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## 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 receiving 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](#).

## How can I appeal?

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 5 days for mailing* of the date you received the notice of denial or you must have a good reason if you request reconsideration late.

## 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. If this is what

happened in your case, ask to see the medical evidence in your file. If you have a treating doctor who has not sent a report to SSA, ask your doctor to do so. If your doctor did submit a report, ask her or him to make an additional one that says why s/he 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.

## 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 5 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 obtain hearing request form from the SSA website. The website address is [www.ssa.gov](http://www.ssa.gov). Your hearing will not take place until 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 are more successful at the hearings. If you would like a lawyer who often represents people in Social Security or SSI claims, refer to your yellow pages or contact your local bar association. Many lawyers will take your case on a "contingency" basis, that is, they will get their fee only if you win your case; from any back benefits that you are determined to be eligible for. 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 obtaining 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. Generally, it is advisable to request a hearing and reapply.

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

You may also choose to represent yourself at your hearing. If you do represent yourself, you should get a copy of your file. Call the Office of Hearings and Appeals as soon as you get an exhibit list and make an

appointment to copy your file. It's called the "exhibit file" and 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 [Your Right to Examine and Obtain Copies of Your Medical Records](#). If you believe your medical records are wrong, see [Your Right to Correct Inaccurate Information in Your Health Care File](#).)

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; that is, 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.

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