

How to Fight Your SSI or SSD Denial

Should I read this?

Yes, if the Social Security Administration (SSA, Social Security) turns down (denies) your initial application because they say you are not disabled.

I have been getting benefits. Should I read this if Social Security is saying they will end them?

No. Read [How to Fight a Termination of Supplemental Security Income \(SSI\) or Social Security Disability When SSA Decides You are No Longer Disabled](#) instead.

Social Security denied my initial application. Can I appeal?

You can ask Social Security to **reconsider** (review) its decision. They deny many SSI and Social Security Disability applications but later approve them on appeal. If you ask for reconsideration, Social Security will review its decision and approve or deny your claim.

How do I appeal?

You must fill out a Request for Reconsideration form. Get one at your local Social Security office, by calling their toll-free phone number, or by going to their [website](https://www.ssa.gov/forms/ssa-561.html) at <https://www.ssa.gov/forms/ssa-561.html>.

How much time do I have to appeal?

Social Security must get your form within 60 days (plus five days for mailing) of the date on the notice of denial.

What if I did not file my appeal in time?

You may still be able to file **if** you had a good reason for missing the deadline. This is a Request for Good Cause. You must fill out a [Statement of Claimant form](http://www.ssa.gov/online/ssa-795.pdf) (<http://www.ssa.gov/online/ssa-795.pdf> or get the form at your local social security office) asking for good cause (**example**: “I request good cause for late filing of my appeal”) and explaining why you could not file the appeal on time. Return this form to your local Social Security office.

Social Security will decide if you had a good reason to file the appeal late. If so, they will process the appeal as if you filed it on time.

How do I prove I am disabled?

Social Security denies many SSI or Social Security Disability claims because it believes the person is not disabled. In the denial notice, they should

- Explain why they denied your claim.
- List all places where they requested and got medical evidence.

If they denied your claim because they decided you are not disabled, make sure they had all the information they needed to make that decision. Ask to see the medical evidence in your file.

Would a letter from my doctor help my case?

Possibly. If you have a regular doctor who has not sent Social Security a letter or report, ask the doctor to do so. If your doctor did submit a report, ask them to make another one explaining why they think you are disabled and unable to work. Your own doctor's opinion can be very important in proving your disability.

Social Security may have sent you to see a doctor who has never seen you before. If so, ask Social Security to order and pay for another evaluation from your own doctor if your doctor believes you are disabled and will do an evaluation. If you can get a second evaluation showing you are disabled, Social Security may change its decision.

Would letters from other people help?

Social Security must take into consideration information from other people about your level of functioning (**example**: what you can and cannot do due to your disability) when making their decision. You can get letters from counselors, ARNPs, past employers, and friends and family **if** both of these are true:

- They describe your functional limitations.
- Those limitations affect your ability to work.

They denied my reconsideration. Now what?

You can 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 of the notice of the denial. You can file the hearing request at your local Social Security office **or** call Social Security and have them mail you the request for hearing form, then fill it out and mail it back. Their toll-free phone number is 1-800-772-1213, 7:00 am - 7:00 pm; TTY 1-800-325-0778. You can also get a hearing request form from [SSA's website](https://www.ssa.gov/forms/ha-501.html) at <http://www.ssa.gov/forms/ha-501.html>.

The hearing will happen many months after you asked for it. The ALJ will tell you the hearing date at least 75 days beforehand.

Should I submit evidence before or during the hearing?

If you have more evidence, such as new medical records showing you are disabled, you should submit it to the ALJ or tell the ALJ about it generally at least five business days before your hearing. If you do not do this in time, generally you must have a good reason for your lateness, such as

- A physical, mental, or educational limitation
- Circumstances beyond your control

❖ If you are appealing the denial of your Social Security disability or SSI application, you now can get a free copy of your medical record once every two years. [RCW 70.02.030\(2\)\(b\)](https://www.wa.gov/rcw/default.aspx?title=70&chapter=02.030§ion=02.030(2)(b)).

Can I subpoena a witness to the ALJ hearing?

Yes. Generally, you must let the ALJ know at least ten business days before the hearing that you want the ALJ to issue a subpoena.

How can I get a lawyer?

- Contact your local bar association.
- Call the National Organization for Social Security Claimants Representatives referral line at 1-800-431-2804.

How do I pay for a lawyer?

Your lawyer gets paid only if you win your case. Lawyers may not charge more than 25% of your back benefits, up to \$6,000. You must pay any costs the lawyer incurs in working on your case (**example:** the cost of medical records). **Get an explanation of the fee arrangement from the lawyer before hiring them.**

Should I reapply or should I appeal and wait for my hearing?

It can take a long time for SSA to schedule your hearing. Some people choose to reapply instead of appealing a reconsideration denial.

In some Social Security Disability cases, not appealing can result in your inability to get benefits even if you reapply. If you believe you are still disabled and cannot work, ask for a hearing.

Can I represent myself at the hearing?

Yes. If you do, get a copy of your file on an encrypted CD. The evidence on the CD is the "exhibit file." This is the only information the judge has about you. If you know about other medical proof that is not in your file, such as hospital or doctor's records, therapist's notes, or x-ray reports, get copies of them to the judge, or send the judge a summary of them at least five business days before the hearing.

If you have trouble getting your medical records, read [Reviewing and Getting Copies of Your Medical Records](#). If you believe your medical records are wrong, read [My Medical Records Are Wrong](#)

Your hearing is the only time during the application process that you will meet the decision maker in person. **You must present your whole case:** everything about your disability, its effects, and why it keeps you from being able to work. Tell the judge all this.

Can I bring witnesses?

Yes. 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.

How do I get ready for the hearing?

Make a list of

- What you want to tell the judge.
- What you want your witnesses to tell the judge.

If you think there is incorrect information in the file, be ready to tell the judge at the hearing why it is wrong.

What is a vocational expert?

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 cannot do.

When does the judge decide?

The judge will make a decision and notify you by mail within a few months of the decision.

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