

SSI Appeals Process



What should you do if you're denied disability benefits?

The majority of initial Social Security applications are denied. Appealing a denial can be confusing, but many claims are eventually overturned upon appeal, so it's important to understand the process!

- About **4 months** after a Supplemental Security Income (SSI) case reaches the **Division of Disability Determination Services (DDS)**, a decision should be made.
- If you disagree with the Social Security Administration (SSA)'s decision, **ask for an appeal in writing within 60 days**.
- A medical denial may say: "We have concluded that your physical condition is not considered severe enough to be disabling. You have difficulty performing certain tasks due to various mental issues."
- **60 days begins the day after the decision**. SSA assumes you got the letter 5 days after the date on the letter, unless you show them otherwise. **You must have a good reason for waiting more than 60 days to appeal**. For example:
 - You did not receive the denial until 4 months after it was sent, or other life circumstances (sickness, death, major events).
 - But remember, you are asking a favor of SSA and it is within their power to deny your request.
- Bringing on an attorney is usually recommended, but you may appeal on your own as well.
 - To appeal visit the **SSA.gov** website or fill out a paper appeal and disability report.

What do you need to know when hiring an attorney for an SSI appeal?

- Attorneys are restricted by Social Security in how much they may charge, and disability attorneys generally do not charge up front.
- Attorneys are usually only entitled to a fee, limited to 25% or \$7,200 (whichever is less) of the retroactive benefit payment(s), if the appeal is successful.
- If you did not appeal at all, these retroactive benefits are money you never would have received.
- The attorney is paid the same amount whether brought on earlier or later during the appeals process.
- If the appeal is not won before going before a judge, it is likely that the judge will encourage you to hire an attorney, which can delay a case.

Why should you appeal an initial SSI denial?

- DDS claims adjudicators do not have much ability to approve a case that is not fully clear.
- DDS does not need to give a full explanation for issuing a denial.
- If denied at the initial level and again at the reconsideration level, the next move is to appeal and request a hearing before an **Administrative Law Judge (ALJ)**.
 - The ALJ examines the evidence, reads through any briefs or legal arguments, listens to testimony and arguments, and then renders a new decision.
- The ALJ has more discretion in deciding a case and must provide a multi-page decision detailing the reasons for their decision.
- If you do not appeal the first SSI decision, you may apply later. But you would need a new application and SSI benefits are paid from the date of the new application.

Health Care Advocacy Program

 <http://thearcnjhealthcareadvocacy.org/>

 Direct line and Fax: 732-246-2567

 cgriffin@arcnj.org

Definitions & Resources

1. **Supplemental Security Income (SSI):** Provides monthly payments to people with disabilities and older adults with little or no income or resources. Includes automatic eligibility for NJ FamilyCare/Medicaid.
2. **Social Security Administration (SSA):** Federal government agency that administers Social Security.
3. **Disability Report:** Form SSA-3368-BK is part of the SSI application process and utilized by SSA to make a decision on the disability claim.
4. **Division of Disability Determination Services (DDS):** Social Security Disability claims are handled through SSA field offices and these state agencies, DDSs. The field office often does an initial application evaluation before the DDS does an evaluation of disability.
5. **Claims Adjudicator:** An employee with assigned authority from the SSA commissioner to approve or disapprove applications for Social Security benefits.
6. **Administrative Law Judge (ALJ):** Executive judges presiding over official and unofficial hearings regarding administrative disputes in the Federal Government. Social Security ALJs specialize in disability law and regulations, and make rulings on disability claims.

- **Understanding SSI Appeals Process** - <https://www.ssa.gov/ssi/text-appeals-ussi.htm>
- **Appeal a Decision We Made** - <https://www.ssa.gov/apply/appeal-decision-we-made>
- **SSI in NJ (2024)** - https://www.arcnj.org/file_download/inline/f7378ada-35b3-4ade-aa5e-4dcc4bd17051
- **Legal Services NJ Law: How to Appeal a Social Security Denial** - <https://www.lsnjlaw.org/legal-topics/government-aid-services/ssdi-ssi/pages/appeal-social-security-denial.aspx>
- **NJ Department of Labor & Workforce Development: Hearings and Appeals** - <https://www.nj.gov/labor/claims/dds/appeals.shtml#:~:text=Appeals%20must%20be%20filed%20in,time%20frame%20can%20be%20granted.>
- **NJ State Bar Association: County Offices** - <https://njsba.com/county-bar-associations-for-the-public/>
- **PLAN NJ Directory of Attorneys** - <https://plannj.org/professional-directory/>
- **Community Health Law Project** - <https://www.chlp.org/>
- **Legal Services of NJ** - <https://www.lsnj.org/>
- **National Organization of Social Security Claimants' Representatives** - <https://nossrhelp.org/help-me-find-a-representative/>