

Montana Legal Services Association

How to Appeal Denials for SSI or SSDI (FAQ)



Providing, protecting, and enhancing access to justice.

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How to Appeal Denials for SSI or SSDI (FAQ)

In this article, you'll learn about:

- How to ask the Social Security Administration (SSA) to reconsider a denial
- How to appeal a denial after reconsideration
- How to represent yourself in a SSA hearing

How Do I Appeal a Denial of Social Security Income (SSI) or Disability Benefits (SSDI)?

You have the right to ask for a reconsideration if the Social Security Administration (SSA) says that you are not disabled and denies your application for benefits.

How do I ask for a reconsideration?

You'll need to fill out a Request for Reconsideration form. You must give the completed form to the SSA within 60 days of when you get the written denial. Some requests for reconsideration can be done online. You must have a good reason to be late in asking for a reconsideration. There may be other forms you need to fill out and submit with your Request for Reconsideration form.

You can find out more information and get forms:

- At your local Social Security office
- By calling the SSA at its toll-free phone number 1-800-772-1213
- Online at <https://www.ssa.gov/forms/ssa-561.html>
- TTY: 1-800-325-0778.

How do I get legal help with an SSA claim?

You may be able to find a lawyer who can help you with an SSA claim, for a fee, using the Montana Bar's Lawyer Referral Service. You can also call Lawyer Referral Service at (406) 449-6577.

How can I prove I'm disabled?

SSA often denies claims for benefits because they believe that the person is not disabled. If this happened in your case, you can:

- Ask to see the medical evidence in your file. SSA can give you an electronic CD of all the documents in your disability file. Make sure that your medical file is complete by submitting any medical records that are not on the CD.
- If you have a health care provider who has treated you, ask them to send a report to SSA. Make sure that any letter from the health care provider says why they think that you are disabled and not able to work.

- SSA may have sent you to see a health care provider who has never seen you before. If this happened to you, ask SSA to order and pay for another evaluation from your own health care provider. Only do this if your health care provider believes you are disabled and is willing to do an evaluation. Your own health care provider's opinion is very important. If your own health care provider gives you an evaluation which shows you are disabled, SSA may change its decision in your case.

What can I do if SSA denies my claim on reconsideration?

If your claim is denied again after you asked for reconsideration, you can appeal. An appeal means that you will ask for a hearing in front of an Administrative Law Judge (ALJ). You must file a hearing request within 60 days of the date you get notice of the denial. You can get the form to ask for an appeal:

- At your local Social Security office
- By calling the SSA at its toll-free phone number 1-800-772-1213
- Online at <https://www.ssa.gov/forms/ssa-561.html>
- TTY: 1-800-325-0778.

Your hearing will take place many months after you request it. You will get notice of the hearing date at least 75 days before your hearing. If you get any more evidence in your case (like new medical records), you should send them to SSA's Office of Hearings Operations right away. The SSA hearing office changed its name to the Office of Hearings Operations (OHO).

Should I apply for benefits instead of appealing?

Some people choose to reapply instead of appealing because it takes so long to get a hearing. But, filing a new application instead of asking for a hearing may stop you from getting all the benefits you would get if you won your hearing. And in some cases, you may not be able to get benefits if you reapply instead of appealing. It is often better to ask for a hearing to appeal the denial of the reconsideration rather than reapply for benefits.

Can I represent myself at the SSA appeal hearing?

Yes, you can choose to represent yourself at your hearing. But, just like any other legal issue, it is helpful to have a lawyer if possible.

You may be able to find a lawyer who can help you with an SSA claim, for a fee, using the Montana Bar's Lawyer Referral Service.

How do I represent myself?

To find out what is in your file, you should call OHO and ask for a CD copy of your disability file or make an appointment to copy your file before the hearing.

Make sure your file has all your medical information. The file contains the only information the judge has about you. If health care information is missing from your file, get copies of that missing information and send it to OHO at least five business days before your hearing. If you don't send your document to OHO before your hearing, the judge might not consider it.

At the hearing it is very important that you tell the judge everything about your disability. It is important to tell the judge how your disability affects you and prevents you from being able to work. Use real life examples if you can. Be specific. If someone you know has seen how your disability affects you, you can ask that person to come to the hearing with you. The judge might let that person testify as a witness for you about how your disability affects you.

At the hearing it is very important to tell the judge if there is incorrect information in your file. You will want to tell the judge the correct information.

It is a good idea to take a list to the hearing of the things you want to tell the judge and what you want your witnesses to tell the judge. You can also make a list of the information in your file that you believe is incorrect. These lists will help you remember to tell the judge what you need to.

What happens after the hearing?

After the hearing the judge will make a decision about your case. This may take a few months. The decision will be sent to you by mail. Always be sure to tell the SSA if your address changes so that all notices and decisions get to your new address.

Social Security Overpayments

Montana Legal Services Association (MLSA) gives free legal help to eligible clients who get a notice of a Social Security Overpayment. MLSA is not able to provide a lawyer to everyone that qualifies for free legal help. The best way to find out if we can help you is to apply for services.

Take Action

Legal Help

- The State Bar Lawyer Referral Service may provide you with contact information for attorneys who provide the type of assistance you are seeking, for a fee. You can contact the State Bar Lawyer Referral Service at (406) 449-6577 or montanabar.org.
- Montana Legal Services Association (MLSA) provides free civil, non-criminal legal help to eligible clients. Learn more about how to apply for free legal help in Montana.

Legal Forms

You can get the forms to ask for a reconsideration or appeal:

- At your local Social Security office
- By calling the SSA at its toll-free phone number 1-800-772-1213
- Online at <https://www.ssa.gov/forms/ssa-561.html>
- TTY: 1-800-325-0778.

How do I get more help?

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at mtlsa.org;
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

What help can I find at MLSA?

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

www.MontanaLawHelp.org

Need legal information or forms? Visit www.MontanaLawHelp.org.

Can't find what you want? Use LiveHelp. Click on the LiveHelp icon and get help finding the information you need.

www.MTLISA.org

Find copies of all our brochures online.

They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.