

CONTINUING DISABILITY REVIEWS

What happens if SSA reviews your disability, and they decide that your conditions have improved and that you are able to work? Here is a general overview of the process to appeal such a decision.

1. **Notice**

SSA will send you a notice explaining that your disability has ended and benefits will cease because they feel you are “no longer disabled.”

2. **Request That Your Benefits Continue:**

You have 10 days to request that your benefits continue during your appeal, but you must act quickly.

- a. Within 10 days of the date on the notice (+5 days for mailing), you will want to go into your local SSA office and request “Continuing Benefits” and also submit your appeal form (see below).
- b. If you choose to receive continuing benefits, SSA will let you know that you may have to pay back those benefits if they decide your disability does not continue. However, if you are appealing with the good faith belief that your disability continues, SSA may waive such an overpayment even if they decide you no longer meet their definition of “disabled”.

3. **60 Days to Submit Appeal:**

You have 60 days (+5 for mailing) from the date on the notice to submit an appeal form. SSA will direct you to use one of these forms to file your appeal:

a. **Form 789 – Request for Reconsideration, Disability Cessation**

- i. Write why you disagree with the decision to stop your benefits.
- ii. Check the box for “I (and/or my representative) wish to appear at a face-to-face meeting...” so that you have a chance to meet with an adjudicator in person.

b. **Form 561 – Request for Reconsideration**

- i. Write why you disagree with their determination.
- ii. Check the box for “Personal Conference” so that you have a chance to meet with an adjudicator in person.

4. **If you miss the 10-day or 60-day deadline**, you can still try to request reconsideration and/or continuing benefits. If you have a good reason for missing the deadline, you can explain this reason and request reconsideration after the time limit has passed.
5. **Form 3441 - Adult Disability Report – Appeal:**

Once you have sent in your appeal forms, SSA will ask you to complete Form 3441 which is the “Adult Disability Report – Appeal” form. This form will look very similar to other forms you filled out when you first applied for benefits. It asks you if there is any *new* information since you last filled out a similar form. Make sure to list all your health care providers and medications. If you have anything new to add, or if there is anything you forgot to mention on the first form, be sure to add it to this form. Be thorough.
6. **Disability Determination Services (DDS):**

This is the agency that reviews disability issues for SSA. Someone at DDS will review your file again and will update the medical records. If they can’t make a favorable decision, they will schedule a disability hearing.
7. **Statement from your Doctor:**

Statements from doctors can be extremely helpful to your case.

 - a. You can ask for statements from your doctors and have them submit those statements to DDS (1516 2nd Avenue, Suite 303, Seattle, WA 98101) or to your local SSA office.
 - b. You can explain to your doctor that SSA believes your disability has ended and that you are now able to work full-time on a regular and continuing basis.
 - c. You can explain that SSA may not have a full understanding of your health problems, and ask if the doctor would be willing to write a statement about any physical or mental limitations that would prohibit you from working.
8. **Disability Hearing at DDS:**
 - a. **File Review**
 - i. You will have the chance to review your SSA file and medical records before the hearing, and it is a very good idea to do so.
 - ii. If you feel there is anything missing, ask questions to see why it is not in the file. You can also gather additional evidence before the hearing.
 - b. **Hearing:**
 - i. You will meet with an adjudicator who will ask you a lot of questions about your daily activities, past work, education, and your mental and physical health problems.
 - ii. You can bring witnesses with you who can speak to the adjudicator, and you can bring any additional evidence that would be helpful to the adjudicator.

9. If SSA Denies the First Appeal, you have 60 Days to Submit Your Next Appeal:

- a. **10 Days to Request That Your Benefits Continue**
 - i. Request continuing benefits (yes, again!) within 10 days (+5 day for mailing) of the notice by going into your local office.
 - ii. You will also want to submit the appeal form at this time.

- b. **60 days to Submit Your Appeal:**
 - i. You have 60 days (+5 days for mailing) from the date on your notice to submit your appeal.
 - ii. **Form HA 501 – Request for Hearing in Front of an Administrative Law Judge (ALJ)**
 - 1. Box #5: Write why you disagree with their determination.
 - 2. Box #7: Check “I wish to appear at hearing”.

- c. **If you miss the 10-day or 60-day deadline**, you can still try to request a hearing and/or continuing benefits. If you have a good reason for missing the deadline, you can explain this reason and request reconsideration after the time limit has passed.

- d. **Representation at Hearing:** If you have worked with an attorney on getting Social Security benefits before, call him/her to see if they can represent you again.
 - i. You can also call the King County Lawyer Referral Service at 206-267-7010 to find an attorney.
 - ii. If no attorneys will take your case, call Seattle Community Law Center to see what services may be available to you. If you have a representative, be sure to get an explanation of any fee.

- e. **ODAR:** Your SSA file will be sent to SSA’s hearing office.
 - i. This is called the Office of Disability Adjudication and Review (ODAR). It is important to notify ODAR if your address or phone number changes because ODAR is the agency that will contact you with the time and date of your hearing. ODAR’s phone number: 1-888-366-6144. ODAR’s address: 2201 Sixth Avenue, Suite 500, Seattle, WA 98131.

- f. **Wait:** Once the hearing request is filed, it generally takes another 12-18 months for a hearing to be scheduled.

- g. **File Review:** Before the hearing, you have the right to review and copy your file at ODAR. ODAR will send you a notice when your file is ready to be reviewed. You may then call them to make an appointment to copy your file. If you see incorrect information in the file, you should present correct information at the hearing.

- h. **Hearing:** You will be notified of the date and time of your hearing at least 20 days before your hearing.
 - i. If you have more evidence, you should submit it to ODAR as soon as possible.
 - ii. At the hearing, the ALJ will have only the information that is in your file and any information you provide. Administrative hearings are quite informal. Usually, you and any witnesses you bring will be the only people at the hearing with the ALJ.
 - iii. You may testify and you may have witnesses testify. Also, you may give the judge additional documents and evidence. Your testimony and your witnesses' testimony is evidence, and so are any additional documents that you provide to the judge. You and your witnesses will be placed under oath, subject to the penalty of perjury. The judge will ask you questions to understand the case better and to help him/her apply the law to your case. It's a good idea to make a list before the hearing of the things you want to tell the judge, and of the things you want your witnesses to tell the judge.
 - iv. After the hearing, the ALJ will make a written decision and mail it to you. This will usually be within a few months of the hearing.

10. What if the ALJ denies my appeal?

- a. If you do not agree with the ALJ's decision, you can file **SSA Form HA520**, "Request for Review of Decision/Order of Administrative Law Judge." Then, the Social Security Administration's Appeals Council will review the ALJ's decision for error. This form must be filed within 60 (+5) days of the ALJ's written decision.
- b. ***If you do not agree with the Appeals Council's decision, you can appeal to Federal District Court. This appeal must also be filed within 60 (+5) days of the Appeals Council's written decision.***