

8 Things to Know If Your Hearing Is Denied

The Social Security Disability Insurance (SSDI) application process can be long and frustrating. Applicants can receive multiple denials and wait several years before finally being approved. While many applicants are approved after going before an Administrative Law Judge (ALJ) at a hearing, unfortunately, not everyone will receive an approval, even after a hearing. In these instances, it is crucial that applicants know their options and understand what a denial could mean for them. We have compiled eight of the most important details applicants should know if their hearing is denied.

1 Available options include requesting a review by the Appeals Council

Upon receiving an SSDI hearing denial, several options are available, and one of them is requesting a review by the Appeals Council. At this level an appeal option does not exist as it does with previous levels. Instead, an individual who receives a denial can request a review of the claim, instead of filing a formal appeal. Before the Appeals Council conducts a claim review, it must be determined if the original decision was made based upon an error in law. This can include the ALJ not following applicable law, abusing discretion, or ignoring medical or other evidence when deciding the claim. Once confirmed, the applicant can request the Appeals Council begin a review. During the review, Social Security will look at the entire file as it stands and not accept any additional evidence unless it meets certain criteria.

2 The Appeals Council can choose to review the claim on its own

Even if an applicant does not issue a request for the Appeals Council to review the claim, the Appeals Council may still choose to do so on its own. No matter how the claim gets before the Appeals Council, the initial review is not done on the merits of the disability claim but rather on whether the decision rendered by the ALJ was made in accordance with the law. Upon review, the Appeals Council will issue one of four decisions. The Appeals Council may: deny the request for review and agree with the original ALJ decision; remand the claim to the hearing level for a new hearing to be held typically with the same ALJ; grant review and overturn the decision, issuing a fully or partially favorable decision based upon a review of the medical merits; or dismiss the claim.

3 An unfavorable decision may be appealed to the US Federal Court

If a decision by the Appeals Council does not overturn an unfavorable decision, an applicant may choose to pursue the claim with the United States Federal Court. When doing so, an applicant files a civil complaint against the Social Security Administration (SSA). Any decision or ruling made at this level is outside the jurisdiction of SSA. A federal judge will review the briefs filed by the applicant – or authorized attorney – and the response brief submitted by SSA. The federal judge will then make a decision that mirrors the potential Appeals Council outcomes: agreeing with the ALJ; overturning the ALJ's decision; or, remanding the claim to the hearing level to be re-reviewed.

4 Filing a new initial SSDI application may restart the process

If applicants receive a denial at the hearing level, they may choose to start the SSDI process over by filing a new application; there is, however, a catch. As an ALJ is not bound by any decision made at the prior application levels, the denial at the hearing level is final. Applicants, therefore, may choose to file a new initial application, but would be unable to request benefits back to when they first went out of work. Instead, applicants would need to allege that their date of disability onset is no earlier than the day after the unfavorable decision made by the ALJ, as the ALJ had already decided on the previous timeframe.

5 New and additional medical evidence is needed to move a case forward

If an applicant receives a denial and would like to pursue a new application, new or worsening disabling conditions supported by new and additional medical evidence must exist. Applicants who choose to reapply without new medical evidence may, once again, find themselves denied. In addition, if an applicant has been out of work for some time, does not have health insurance, and thus forgoes active medical treatment, the lack of ongoing medical care may not be viewed favorably. Social Security cannot approve an SSDI case without medical evidence, so seeking ongoing treatment is critically important.

6 The date last insured may play a large part in a decision to move forward

To qualify for SSDI benefits an applicant must meet Social Security's insurance requirements. In most instances, to be considered insured, an applicant must have worked and paid FICA taxes for at least five out of the last ten years, though some exceptions will apply. An applicant that has been out of work and going through the SSDI process for several years, may no longer be insured by the time a hearing denial is received. If this is the case, the applicant is past the date last insured (DLI) and would be unable to apply for ongoing SSDI benefits. The applicant may want to appeal the decision or pursue other sources of income, but once a DLI has expired, the only way to gain further insurance credits is to return to work.

7 The path to pursue SSI benefits may still exist, even if SSDI requirements are no longer met

An applicant with an expired DLI that no longer meets the requirements for SSDI but remains unable to work may choose to pursue Supplemental Security Income (SSI) benefits. SSI benefits have no insurance-related requirements and are payable to individuals who cannot work because of a disabling condition. Unfortunately, SSI payments are often significantly less than SSDI benefits, do not automatically provide healthcare coverage, and do not include dependent benefits. Applicants, however, should still choose to pursue the benefits if needed.

8 Returning to work is a valid option

For many applicants, receiving a denial at the hearing level can be incredibly disappointing, especially for those pursuing benefits for several years. At this point, many applicants may feel they have no other choice than to return to work. If an applicant is physically and mentally able to do so, returning to work may be a viable option. For those individuals who are unable to perform the duties of previous work, they may consider retraining in a new field. Free vocational programs may exist in an individual's community, or individuals can speak with their local Social Security offices for other resources available to help them get back to work.

Have questions? We can help.

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