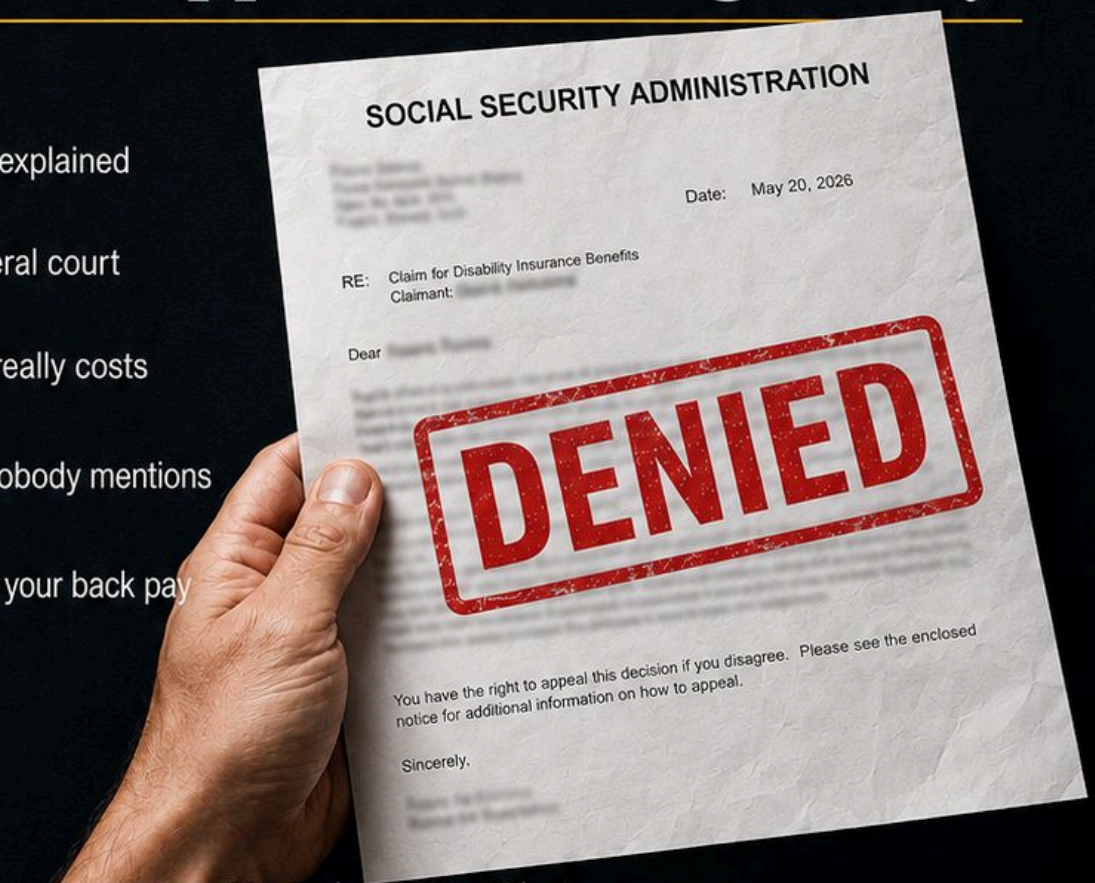
GOVCLARITY

60 DAYS TO APPEAL

SSDI Denied? How to Appeal — the Right Way

- The 4 levels of appeal, explained
- Reconsideration to federal court
- What a representative really costs
- The evidence deadline nobody mentions
- The mistake that forfeits your back pay



YouTube: @GovClarity

A GovClarity Publication

At a Glance — Key Facts for 2026

Five things to know before you read anything else:

⏱️ 60-Day Deadline

You have **60 days to appeal** — and that deadline applies at every level, all the way up

📊 1 in 5 Approved

Only about **1 in 5** disabled-worker applicants are approved at the initial stage — a denial is normal, not the end

⚖️ Appeals Work

About **a third of everyone who gets approved** got there by appealing

🏛️ Hearing Odds

Once you reach a hearing, **judges approve about half** the cases they hear

💰 Free to Appeal

Appealing inside Social Security is **free** — there is no filing fee at any administrative level

The four levels of appeal:

01

Reconsideration

Forms SSA-561 + SSA-3441

02

ALJ Hearing

Form HA-501

03

Appeals Council Review

Form HA-520

04

Federal District Court

Civil action — no SSA form

This guide is for you if:

- A denial letter for SSDI (Social Security Disability Insurance) is sitting in front of you
- You're deciding whether appealing is worth it — and how to do it right
- You want to know what a representative really costs before you sign anything

Haven't applied yet?

This guide starts *after* a denial. For work credits, medical evidence, and the application itself, download our free **SSDI Application Guide** at govclarity.net.

Step One — Read Your Denial Letter

Everything in your appeal strategy starts with two facts printed in that letter: **the date** and **the reason**.

The Date Starts Your Clock

Your 60-day appeal window runs from the day you *receive* the notice. Social Security presumes you received it **5 days after the date on the letter** (you can rebut that if mail actually arrived later). Write down: date on the letter + 5 days + 60 days. That is your deadline.

The Reason Changes Your Whole Strategy

There are two fundamentally different kinds of denial. Matching your appeal to your denial type is essential — no amount of new doctor records fixes a work-credit problem, and no earnings correction fixes a medical finding.

If the letter is unclear, call Social Security at **1-800-772-1213** and ask which type you received.

Technical Denial

You never reached the medical question. Common reasons:

- Not enough work credits for your age, or credits not recent enough
- Earnings above the substantial gainful activity limit ($1,690/month in 2026) while your claim was pending
- Incomplete application or missing information

Medical Denial

Social Security decided your condition doesn't meet their definition of disability. Reasons include:

- They believe you can still do your past work
- They believe you can adjust to other work in the national economy
- Your condition isn't expected to last 12 months or result in death (duration requirement)
- No "severe" impairment found
- Insufficient medical evidence in your file
- Failure to cooperate (missed consultative exams, unanswered requests)
- Failure to follow prescribed treatment without good reason

The 60-Day Deadline — Rules and Exceptions

The Basic Rule

You have **60 days from receipt** of the denial notice to appeal to the next level — and this same 60-day rule applies at every level: reconsideration, hearing, Appeals Council, and federal court.

- Receipt is presumed to be **5 days** after the date on the notice
- If your 60th day lands on a **weekend or federal holiday**, the deadline moves to the next business day
- Miss the deadline, and the decision generally becomes **final**

Late Appeals — The "Good Cause" Exceptions

Social Security *can* accept a late appeal if you show good cause (POMS GN 03101.020). Examples the rules recognize:

- → You were seriously ill and unable to contact SSA in person, in writing, or through others
- → There was a death or serious illness in your immediate family
- → Your records were destroyed by fire or other accidental cause
- → You never received the notice, or mail delivery failed
- → You were actively misled by SSA, or received incorrect information from the agency
- → You didn't understand the requirement due to limitations you have

⚠ **A protection most people never hear about:** Under **SSR 91-5p**, if you lacked the *mental capacity* to understand the appeal deadline — and had no one legally responsible for acting on your behalf — Social Security is **required** to extend the deadline, no matter how much time has passed.

> **Our advice stands regardless:** Inside 60 days, appealing is your *right*. After 60 days, it's a *favor you must ask for and prove*. Don't trade a right for a favor. File on time, even if your evidence isn't ready — you can submit records after you file.

The Four Levels of Appeal — Overview

Most people never need all four levels. Most claims that win, win at the hearing.

Level	What It Is	Form(s)	Typical Timeline
1. Reconsideration	Fresh review by a new examiner + new medical consultant	SSA-561 + SSA-3441	A few months
2. ALJ Hearing	A judge hears you, in person, online, or by phone	HA-501	Under 9 months on average to decision
3. Appeals Council	Reviews whether the judge followed the rules	HA-520	Several months to a year+
4. Federal Court	Civil lawsuit in U.S. District Court	Complaint (no SSA form)	A year or more

Cost

Levels 1–3 are free. Federal court has a filing fee (covered later in this guide) that can be waived for financial hardship.

Deadline at Every Level

60 days from receipt of the previous decision. All administrative appeals can be filed online at **ssa.gov** — look for "Appeal a decision we made," not "Apply for benefits." Filing a new application by mistake is the single most expensive wrong turn in this process.

Level 1 — Reconsideration

What Actually Happens

A completely different examiner and a different medical consultant — people who had no part in your first decision — review your entire file, plus anything new you add. Since 2020, reconsideration is a required step **in every state** (the old 10-state "prototype" program that skipped it was terminated).

The Honest Odds

Most reconsiderations are denied. Historically, roughly **10–15% of reconsiderations are approved** (recent SSA cohort data puts the disabled-worker figure around 12–13%, though final rates shift as pending claims resolve). Don't let that stop you — reconsideration is the required doorway to the hearing level, where your odds genuinely change.

How to File

Form SSA-561

Request for Reconsideration

Form SSA-3441

Disability Report – Appeal (updates your medical status since the last decision)

File online at ssa.gov, by mail, or at your local office.

What to Send

Anything dated **after your original application**: new test results, new diagnoses, hospital stays, new treating providers, worsening symptoms documented by your doctors.

File first, send evidence as it arrives. The 60-day deadline will not wait for your doctor's office, and you can supplement your file after filing.

Level 2 — The Hearing

This is the level that matters most. For the first time, a *person* — an Administrative Law Judge — hears you explain your situation in your own words. You can testify, bring witnesses, and submit doctor statements. The judge asks questions directly.

Format Options

Hearings can be held **online (video), by phone, or in person** — you can state a preference

Timing

As of June 2026, SSA reported hearing claimants waiting on average **less than nine months** for a decision, with the agency working toward a 270-day processing goal

After the Hearing

Expect roughly **60–90 more days** for the judge's written decision. Your hearing office may be much faster or slower — SSA publishes wait times by office at **ssa.gov/appeals**

The 5-Business-Day Evidence Rule (20 CFR § 404.935)

You must **submit** all written evidence — or at least **inform the judge it exists** (naming the source, location, and dates) — no later than **5 business days before the hearing**. Miss that, and the judge *may refuse to consider* the late evidence.

The rule has good-cause exceptions. Late evidence can still come in if:

- SSA's own action misled you
- A physical, mental, educational, or language limitation prevented earlier submission
- You had a serious illness, or a death or serious illness in your immediate family
- Records were destroyed by fire, flood, or other accident
- **You diligently requested the records and the source failed to send them in time**

⚠ That last exception is the one that matters most in practice — and it only protects you if you can show diligence. **Request your records early, and keep proof that you asked.**

Who Else Is in the Room — Vocational and Medical Experts

The Vocational Expert (VE)

At most hearings, the judge brings in a vocational expert — a jobs specialist who testifies about what work someone with your limitations could still perform.

Here's how it works: the judge describes a hypothetical person with your age, education, work history, and medical limitations, and asks the VE what jobs that person could do. The VE answers using **DOT (Dictionary of Occupational Titles) job classifications** and **job-incidence numbers** — estimates of how many of those jobs exist in the national economy.

Why this matters: if the VE's testimony goes unchallenged, it becomes very difficult to overturn later. Effective questioning asks things like:

- Do the cited jobs actually accommodate *all* the limitations in the record — including off-task time, absences, or the need to alternate sitting and standing?
- Are the job-incidence numbers current and reliable, and what's their source?
- Does the DOT description actually match how the job is performed today?

The Medical Expert (ME)

Some judges also call a medical expert to interpret the medical record and testify about whether your condition meets or equals a listing. Their opinion can be questioned too.

This Is Where Representation Earns Its Fee

You can represent yourself at a hearing, and people do. But cross-examining a VE on DOT codes and job-incidence data is skilled work, and approval rates vary sharply by hearing office (SSA's own disposition data shows some offices approving well under half and others well over). A representative who handles hearings every week knows the local terrain. The full cost rules are two cards ahead.

Level 3 — The Appeals Council

If the judge denies your claim, you have 60 days to request review by the Appeals Council using **Form HA-520**.

What the Appeals Council Actually Reviews

This is the most misunderstood level. The Appeals Council is **not re-deciding whether you're disabled**. It reviews whether the judge got the *process* right. It grants review mainly when:

Abuse of Discretion

The judge acted outside the bounds of proper judicial conduct

Error of Law

The judge misapplied or ignored applicable legal standards

Not Supported by Substantial Evidence

The decision lacks adequate factual support in the record

Broad Policy Issue

A procedural issue affecting the public interest

The Three Possible Outcomes

1. Deny Review

The judge's decision stands — this is the most common outcome

2. Decide the Case

The Council issues its own decision on the merits

3. Remand

Send the case back to a judge for a new hearing — the most common outcome when review *is* granted

New Evidence at This Level

The Appeals Council only considers new evidence that relates to **the period on or before the judge's decision**. If your new evidence is about a *later* period — say your condition worsened after the hearing — the Council will return it and advise you to file a new application.

Protect your filing date: if that happens and you file the new application within **6 months** of the Appeals Council's notice, you can preserve the date of your Appeals Council request as the filing date for the new claim. Don't sit on that letter.

Level 4 — Federal Court

If the Appeals Council denies review or rules against you, your final option is a civil action in **U.S. District Court** — filed within 60 days of the Appeals Council's notice.

This Is the One Level That Isn't Free

- Filing fee: **$350** (28 U.S.C. § 1914) plus a **$52–55 administrative fee** — about **$402–405 total**
- An appeal beyond district court (to a circuit court) costs over $600

The Fee Waiver — In Forma Pauperis (28 U.S.C. § 1915)

If you can't afford the fee, you can ask to proceed **in forma pauperis**. This requires a sworn affidavit detailing household income (including a spouse's), assets, vehicles, bank balances, and itemized expenses.

It is not automatic. Courts deny the waiver where there are substantial savings, a working spouse, or significant assets — and if denied, you must pay the fee or the case is dismissed.

What the Court Does

A federal judge reviews whether SSA's decision was legally correct and supported by substantial evidence. The court rarely awards benefits outright — the most common successful outcome is a **remand**: the case goes back to SSA for a new hearing, done right this time.

Nearly everyone at this level has an attorney — and at this stage, a special fee rule applies (next card).

What a Representative Really Costs — The Complete Rules

Disability representatives work on contingency: **no win, no fee**. But "the fee is capped at $9,200" — the version you hear most often — is only one of **four different fee regimes**. Know which one you're signing.

Where	Mechanism	The Rule
SSA levels (1–3)	**Fee agreement** (Form SSA-1693)	Lesser of **25% of back pay or $9,200** — the standard arrangement
SSA levels (1–3)	**Fee petition**	A "reasonable" fee approved by SSA — **no $9,200 cap**
Federal court	Court-awarded fee (§ 406(b))	Up to **25% of past-due benefits — no dollar cap**
Federal court	**EAJA** (Equal Access to Justice Act)	Paid **by the U.S. Treasury**, not from your back pay — if the government's position wasn't substantially justified

The EAJA detail worth knowing: if your attorney is awarded fees under *both* EAJA and § 406(b) for the same work, they must **refund the smaller amount to you**.

Two things to check before you sign:

1 Which mechanism is in your agreement

Fee agreement or fee petition? The cap only applies to the first.

2 Out-of-pocket costs are separate from the fee

Charges for copying medical records and similar expenses are usually billed separately — and can be owed **even if you lose**. Ask for the expense policy in writing.

The $9,200 cap is current for all of 2026 (set November 2024; the planned inflation adjustment was withdrawn in May 2025). Have any representative walk you through the agreement line by line before you sign — a good one will offer.

Evidence Strategy — Your Records Are Your Case

What Counts as "New Evidence"

Anything dated **after your original application**: new imaging or lab results, a new diagnosis, a hospitalization, a new treating specialist, documented worsening, medication changes and their side effects. This is what gives a new decision-maker a reason to reach a different answer.

Keep Treating — and Keep the Paper Flowing

If your file looks identical at reconsideration to the day you were denied, you've given the new examiner nothing new to weigh. Send records as they're created, at every level.

Treatment Gaps — Know Your Rights (SSR 16-3p)

Long gaps in treatment raise questions — but here's what almost nobody tells you: Social Security's own rules **forbid** deciding your symptoms aren't credible because of a treatment gap **without first considering the reasons for it**. The reasons they must weigh are exactly the ones real people have:

- You couldn't afford treatment
- You lost your insurance
- You couldn't access a clinic or free/low-cost care
- Medication side effects were intolerable
- Your condition itself — pain, fatigue, depression — kept you from going

The adjudicator must review the record for explanations, consider them, and **explain in the written decision** how they were evaluated.

Your move: if you have a gap, don't hide it and don't give up over it. **Explain it, in writing, in your appeal** — and get it into the record before the decision, not after.

Appeal or Start Over? — Almost Always Appeal

Filing a brand-new application instead of appealing feels natural: they said no, so try again. For most people it's the most expensive mistake available.

Why a New Application Usually Loses

- **You generally can't do both.** While an appeal is pending, SSA won't accept a new application for the same benefit — you'd have to abandon the appeal.
- **You risk your original filing date** — and the back pay building since it. SSDI back pay reaches back a maximum of **12 months before the application date** (after the 5-month waiting period). A fresh application resets that reach.
- **SSI is even less forgiving:** SSI pays nothing before the month after you apply — **zero retroactivity**. If your claim involves SSI, restarting costs every month since your original filing.

The Reopening Rules — A Second Chance for a Lost Filing Date

If you *did* let a claim lapse and filed new, an earlier determination can sometimes be **reopened**, restoring the original filing date (20 CFR 404.988, 416.1488):

Window	Standard
Within **12 months**	Any reason — SSDI and SSI
Within **4 years** (SSDI)	Good cause — typically new and material evidence
Within **2 years** (SSI)	Good cause — typically new and material evidence
Any time	Fraud or similar fault

Reopening is discretionary and technical — if an old filing date is worth real money in your case, this is a question worth putting to a representative.

The Narrow Exception

If your condition **seriously worsened after the denial** — genuinely new impairments, not just more of the same record — a new application built on that new condition can sometimes make sense. Even then, get advice before abandoning an appeal. For most people, in most situations: **appeal, don't restart.**

3 Costly Mistakes — And How to Avoid Them

❌ Mistake 1: Filing a New Application Instead of Appealing

The big one, covered in depth on the previous card. Watch for it at the *website* level too: SSA.gov will happily let you start a brand-new application when you meant to appeal. You want **"Appeal a decision we made"** — not "Apply for benefits."

Prevention: Use the appeal path at ssa.gov, or call 1-800-772-1213 and say the word "appeal."

❌ Mistake 2: Filing the Appeal, Then Going Quiet

A lot of people file and then sit back and wait. But if your file looks the same at reconsideration as it did the first time, you've given the new examiner nothing new to weigh.

Prevention: Treat the appeal as ongoing, not one-and-done. Send new records as they're created. Respond to every SSA request promptly. At the hearing level, remember the 5-business-day evidence rule.

❌ Mistake 3: Stopping Treatment — or Assuming a Gap Already Sank You

Your medical records are your case. Long treatment gaps raise questions — but a gap you can explain is protected by SSA's own rules (SSR 16-3p, two cards back).

Prevention: Keep every appointment you can. If cost or access forces a gap, document why, in writing, in your file. Free and sliding-scale clinics count as treatment — findhelp.org and your county health department can locate options.

Your Appeal Action Checklist

This Week

- [ ] Find the denial letter — note the date printed on it
- [ ] Calculate your deadline: letter date + 5 days + 60 days (next business day if it lands on a weekend/holiday)
- [ ] Write the deadline somewhere you'll see it
- [ ] Identify your denial type: technical or medical (call 1-800-772-1213 if unclear)

File the Appeal — Before the Deadline, Even If Evidence Isn't Ready

- [ ] File online at ssa.gov ("Appeal a decision we made") — or submit Forms SSA-561 + SSA-3441
- [ ] Keep confirmation of the filing date
- [ ] List every doctor, clinic, and hospital since your application — request records from each, and keep proof you asked

While the Appeal Is Pending

- [ ] Send new medical records as they're created
- [ ] Keep treating — and document the reason for any gap in writing
- [ ] Respond to every SSA letter and phone request promptly
- [ ] If a hearing is scheduled: evidence submitted or disclosed 5+ business days before

If You're Denied Again

- [ ] Next level, same 60-day rule — Hearing (HA-501), then Appeals Council (HA-520), then federal court
- [ ] Before the hearing level, seriously consider representation — contingency-fee rules are in this guide
- [ ] NOSSCR referral line: 1-800-431-2804

Official Resources & Contact Information

Social Security Administration (SSA)

Main website: ssa.gov

File an appeal online: ssa.gov/benefits/disability/appeal.html

Appeals process overview & hearing office data: ssa.gov/appeals

Check your claim status: ssa.gov/myaccount

Phone: 1-800-772-1213

TTY (hearing impaired): 1-800-325-0778

Hours: Monday–Friday, 8am–7pm local time

The Appeal Forms

- **SSA-561** — Request for Reconsideration: ssa.gov/forms/ssa-561.html
- **SSA-3441** — Disability Report – Appeal: ssa.gov/forms/ssa-3441.html
- **HA-501** — Request for Hearing: ssa.gov/forms/ha-501.html
- **HA-520** — Appeals Council Review: ssa.gov/forms/ha-520.html
- **SSA-1693** — Fee Agreement for Representation: ssa.gov/forms/ssa-1693.html

Finding Representation

NOSSCR

National Organization of Social Security Claimants' Representatives
Referral line: 1-800-431-2804 | nosscr.org
Most disability representatives work on contingency — no upfront cost

Free Legal Help

Local legal aid societies (many handle disability appeals at no charge)
State bar association referral services

⚠ All information in this guide is current as of July 2026. Government policies change. Always verify with the official source before taking action.

About This Guide

This guide was created by **GovClarity**, an independent educational resource. We are not affiliated with the Social Security Administration or any U.S. government agency.

Our mission is to take complex government procedures and make them genuinely understandable — in plain language, for free, with no email required.

> **For more free step-by-step guides, visit govclarity.net**

Related free guides at govclarity.net:

SSDI Application Guide

Work credits, medical evidence, and the application itself — start here if you haven't applied yet

SSDI vs. Social Security Retirement — Complete 2026 Guide

If you're near retirement age and weighing your options

This guide is educational and is not legal advice. All information is current as of July 2026. Policies change — always verify with the official source before taking action.

GovClarity

Free Guides. Plain Language. No Email Required.

YouTube: @GovClarity | A GovClarity Publication

GOVCLARITY.NET FREE GUIDES 2026 EDITION