

Department of Social and Health Services
Community Services Division
Social Services Manual

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Category: **SSI Facilitation - SSA Determinations and Appeals**
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Summary

Updated clarifying information for WAC 388-449-0150- Clarified what happens when a client is denied SSI for failure to apply for early retirement benefits. Added address for the appeals council and linked the CSD procedure handbook.

SSI Facilitation - SSA Determinations and Appeals

Revised March 7, 2023

Clarifying Information:

If a client is denied SSI due to failure to apply for early retirement benefits, ABD eligibility should continue. Retirement does not meet the definition of federal aid assistance. The client would have good cause because pursuing early retirement would result in a significant penalty in their retirement benefit amount.

Purpose

This section contains information regarding actions that are necessary when a Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) determination is made by the Social Security Administration (SSA).

[WAC 388-449-0150](#) - When does my eligibility for the Aged, Blind, or Disabled (ABD) cash benefits end?

SSI/SSDI Approvals

1. When disability is approved at the Initial or Reconsideration level, the Division of Disability Determination Services (DDDS) notifies the Social Security Administration District Office (SSADO).
 - a. The Office of Quality Review (OQR) reviews a percentage of DDDS approvals and denials for quality assurance and has the authority to overturn DDDS decisions.
 - b. Approvals by an Administrative Law Judge (ALJ) at the Hearing level or the Appeals Council Review are binding and are not reviewed by the OQR.
2. The SSADO conducts a financial eligibility review before final approval of SSI benefits.
 - a. The financial eligibility review usually involves a mandatory interview with the client.
 - a. SSI Facilitators may need to assist with the SSA financial eligibility review process.
 - b. The client cannot enter SSI/SSDI pay status until the financial eligibility review is completed.
 - c. Terminate ABD assistance if the client fails to complete the mandatory SSA financial eligibility review.
 - d. SSA sends the client written notice regarding SSI/SSDI once the financial eligibility review is completed.

NOTE: Contact the Office of Financial Recovery (OFR) at 1-800-562-6114 if a client receives the entire retroactive SSI payment. OFR will attempt to obtain any interim assistance reimbursement to which the Department is entitled.

Review of ABD Assistance Following SSI/SSDI Denial

1. Eligibility for ABD assistance ends when:
 - a. SSA makes an unfavorable disability determination at the Initial, Reconsideration, or Hearing level **and** the client fails to file a timely appeal; **or**
 - b. A final unfavorable disability determination is made at the Appeals Council Review or by the ALJ after remand by the Appeals Council.
2. Eligibility for ABD assistance may also end following an SSI/SSDI denial when:
 - a. The client no longer meets ABD income and resource requirements; or
 - a. The client no longer meets ABD disability criteria.
3. When SSA denies an application at the Initial, Reconsideration, or Hearing level, the SSI Facilitator reviews the SSA determination and performs a brief review of all available medical evidence to identify if the client's conditions have improved or deteriorated.

- a. If SSA denied the application due to income or resources, the SSI Facilitator notifies financial regarding the denial. Financial reviews the case to determine if the client continues to meet ABD income and resource requirements.
- b. If the client no longer appears to meet ABD disability criteria, the SSI Facilitator notifies the Disability Specialist that an early Disability Review may be needed. The Disability Specialist reviews the medical evidence in detail, and if warranted, requests current medical evidence and initiates an early ABD Disability Review.
- c. If the client appears likely to meet ABD disability criteria, the SSI Facilitator determines an early ABD Disability Review is not necessary and continues with the SSI Facilitation process.

NOTE: The Department may initiate an early Disability Review at any time if new information is received indicating the client may no longer meet ABD Disability Criteria.

Termination of ABD Assistance Following SSI/SSDI Denial

1. Terminate ABD assistance when a client no longer meets program eligibility criteria per WAC [388-400-0060](#) and WAC [388-449-0001](#).
2. Authorize the HEN Referral program only if the ABD termination is based on an SSA disability denial at the Initial, Reconsideration, Hearing, or Appeals Council Review level **and** the client meets incapacity criteria defined in WAC [388-447-0001](#).
3. Do not authorize the HEN Referral program if the ABD termination is based on an SSA denial for failing to follow through with an SSI program rule or application requirement (e.g. failing to provide information requested by SSA, failing to attend a required SSA interview, or failing to attend a Consultative Examination (CE) appointment).

Appealing SSI/SSDI Denials

1. ABD recipients must appeal SSI/SSDI denials through the Appeals Council Review stage as a condition of eligibility for ABD assistance.
 - a. All appeal requests (e.g. Reconsideration, Hearing, and Appeals Council Review) must be filed within 60 calendar days of the SSA denial unless there is good cause for the missed deadline. Only SSA can determine whether there is [good cause](#) for a missed appeal deadline.
2. An ABD recipient cannot choose to withdraw an active appeal without losing ABD assistance, including instances when withdrawal is recommended by their legal representative.

NOTE: SSA will not process new SSI or SSDI applications when there is a pending claim under the same title at any stage of the application or appeal process (e.g. Initial, Reconsideration, Hearing, or Appeals Council Review).

Filing a Request for Reconsideration

Reconsideration is the first level of appeal when an SSI/SSDI application is denied.

1. Always request Reconsideration when an ABD recipient's SSI/SSDI application is denied, including instances when an early ABD Disability Review is initiated.
2. A Request for Reconsideration must be filed within 60 calendar days of the SSI/SSDI initial application denial and include:
 - a. A completed iAppeal (SSA-561 and SSA-3441);
 - b. A signed and dated SSA-827 and SSA-3288;
 - c. Any new medical evidence in the Electronic Case Record (list the CSO as a medical source in the iAppeal); and
 - d. A new SSA-3373 Function Report and Personal Observation statement when warranted.

Legal Representation

1. Explain the potential benefits of obtaining legal representation.
2. A person has the right to select an attorney, friend, or other individual to represent them. They also have the right to decline assistance and represent themselves at a SSI Hearing or Appeals Council Review.
3. When a client chooses to have a legal representative:
 - a. Do not recommend a specific attorney;
 - b. Inform the client that legal representatives may also charge for expenses incurred while representing the client; and
 - c. Provide the client with a DSHS 09-972 SSI Legal Representation form.

NOTE: It is a conflict of interest for the SSI Facilitator to act as a legal representative for clients.

Filing a Hearing Request

The Hearing is the second level of appeal when an SSI/SSDI application is denied.

1. If the client obtains legal representation, the attorney will file the Hearing request.
2. When a client is without legal representation, **or** the client is in danger of missing the appeal deadline, the SSI Facilitator assists the client with filing the Hearing request.
3. A Hearing request must be filed within 60 calendar days of the SSI/SSDI Reconsideration denial and include:
 - a. A completed iAppeal (HA-501 and SSA-3341);
 - b. A signed and dated SSA-827; and
 - c. Any new medical evidence (copied from the ECR).

Filing a Request for Appeals Council Review

1. If the client has a legal representative, the representative may file the request for an Appeals Council Review.
2. If the client does not have a legal representative or the legal representative chooses not to request an Appeals Council Review, **and** the client continues to appear to meet ABD disability criteria, the SSI Facilitator will assist the client with filing the written Appeals Council Review request.
3. The Appeals Council Review request must be filed within 60 calendar days of the SSI/SSDI Hearing denial and include:
 - a. A completed iAppeal (HA-520-U5);
 - b. A signed and dated SSA-827; and
 - c. Any new medical evidence (copied from the ECR).

NOTE: To inquire about the status of an Appeals Council Review that has gone beyond standard processing timeframes, contact the SSA [Appeals Council in the Office of Appellate Operations \(OARO\)](#) at (703) 605-8000 or by fax at (703) 605-8021.

Their mailing address is:

Appeals Council, SSA/OARO

5107 Leesburg Pike

Falls Church, VA 22041-3255

Related Procedures (Staff Only):

ABD Early Disability Review at SSI Denial

Deleted: Office of Disability Adjudication and Review (ODAR)