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[Home](#)[About NSLS](#)[NSLS Programs](#)[Legal Support Center](#)[Community Resources](#)[Events & Newsletter](#)

IMPORTANT INFORMATION ABOUT YOUR CONTINUING DISABILITY REVIEW

[← BACK TO SOCIAL SECURITY](#)



Back when you first received your Social Security benefits, no promises were given that they would last for the rest of your life. In fact, your case was supposed to have been reviewed after a certain number of years. However, a large backlog of these scheduled "continuing disability reviews" (called CDR's) currently exists at the Social Security Administration (SSA). If you disagree with the notice from SSA saying that your case has been reviewed and that they found that your impairment has ceased and want to challenge it, it is important that you read this in its entirety and act quickly.

Appeal within 10 days to make sure your benefits continue.

If you or anyone receiving benefits under you (your children or spouse) want to have your Social Security or SSI benefits continue during the appeal of this decision*, you must let the Social Security Administration know within 10 days of receiving the notice. **IF YOU DO NOT, YOUR BENEFITS WILL CEASE WHILE YOU PURSUE YOUR APPEAL!** You will then have to apply for public assistance.

The 1st Appeal Step : Reconsideration

The CDR appeal procedure is somewhat different from the procedure you may have followed to get your benefits in the first place. At this first appeal step, called the reconsideration level, you are entitled to a face-to-face disability "hearing" with a hearing officer. This hearing officer is not an administrative law judge, but usually an employee of your local SSA office where the hearing is held. SSA may ask you to go for an examination by one of its doctors. You must cooperate in that request.

You can represent yourself: but be prepared!

Unfortunately, Law Services does not have sufficient staff to represent you at this "reconsideration" hearing. **HOWEVER, WE URGE YOU TO REPRESENT YOURSELF AS BEST AS YOU CAN.** Remember, the only issue is your current health status ... not your past condition. You must provide evidence to show that you continue to be disabled and unable to work. You do have certain important rights:

1. You have the right to ask SSA to assist you in obtaining pertinent evidence (including a request to issue subpoenas to doctors or hospitals for their records). Reports from your treating doctors are essential to your case.
2. You have a right to review the evidence SSA has already collected. This is usually called your "file". You can review it on the day of your hearing or before your hearing.
3. You have the right to submit additional evidence, to present witnesses, and to question those witnesses.
4. You have the right to ask the hearing officer to allow an extra 15 days for you to submit additional evidence once the hearing is completed.

Eventually, a written decision will be sent to you. If you lose, you have the right to appeal to the next step. We have not done CDRs in years and staffing is not likely to increase.

The 2nd Appeal Step: ALJ Hearing

Technically, you have 60 days to appeal your reconsideration denial. **HOWEVER, YOU MUST DO SO WITHIN 10 DAYS IF YOU WANT YOUR BENEFITS TO CONTINUE!** At this step, you are entitled to a hearing before an administrative law judge of the Social Security Administration. On Long Island, these hearings are held in Jericho at the Office of Disability Adjudication and Review (ODAR). As of September 2011, ODAR plans to move to the Federal Courthouse building in Central Islip.

Once again, you have the right to submit evidence and witnesses and review your file at the ODAR. If you lose your ALJ Hearing, you can appeal to the Appeals Council of the Social Security Administration. You have 60 days to do so. However, at this appeal point, your benefits will cease. If you are still not working, you may have to apply for public assistance. You may also file a new application for disability benefits at any time if you continue to believe that you are still disabled despite losing at the hearing.

**NOTE: if your continuing disability review appeal is ultimately denied, any benefits paid pending the appeal are considered an "overpayment" subject to recoupment. However, if you appeal SSA's determination to terminate your benefits because you genuinely believed you continued to be disabled, you should ask for a "waiver of overpayment" and it should be granted.*



The information contained in this material is not legal advice. Legal advice depends upon the specific facts of each situation. Also, the law may vary from state to state, so that some information from our website may not be correct for your jurisdiction. Finally, this information is not guaranteed to be up to date. The material contained on this site cannot replace the advice of competent legal counsel licensed in your state.

CONTACT US

Appointments are necessary. Call the Law Services office closest to you.



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We're committed to helping people in need vindicate their rights under the law.

Nassau Suffolk Law Services Committee, serving Long Island since 1966.

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