



# Filing an SSI Appeal

What to do if your claim for benefits is denied

## The Arc Webinar Wednesday Series

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## Supplemental Security Income (SSI)

- Needs-based program, based on income and living situation; not an insurance program
  - Federal program with a state supplement, which varies state-to-state
    - New Jersey's supplement: \$31.25
  - Categories
    - Aged person – 65 years or older
    - Blind
    - Disabled
- Spouse, children and survivors do not receive benefits
- Medicaid - no waiting period



## Definition of Disability for Adults

“The inability to engage in any substantial gainful activity by reason of any medically determinable, physical or mental impairment which can be expected to result in death or last for a continuous period of not less than 12 months.”

### 5 Step Sequential Evaluation

1. Is the claimant working? If yes, is it substantial gainful activity?
2. Is the impairment severe?
3. Does the impairment meet or equal a listing?
4. Can the claimant return to his/her past work?
5. Is there any other work that the claimant can do?



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## Definition of Disability for Children

“If you are under age 18, we will consider you disabled if you have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.”

- Medical equivalence or
- Functional equivalence

Children receiving SSI benefits are supposed to be re-evaluated upon reaching the age of 18 using the adult definition and evaluation.



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**§ 404.1572. What we mean by substantial gainful activity.**

Substantial gainful activity is work activity that is both substantial and gainful:

(a) *Substantial work activity.* Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) *Gainful work activity.* Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized.

(c) *Some other activities.* Generally, we do not consider activities like taking care of yourself, household tasks, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful activity.

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## Listing of Impairments

- Each body system-musculoskeletal, cardiovascular, neurological, mental health-has a list of criteria that needs to be meet in order to be found disabled.
- Listings can be found at <https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>
- *There is a separate listing for adults and children*
- *Claimant can present a combination of impairments that may meet a listed impairment*
- *Claimant may not meet or equal an impairment but they may lack the residual functional capacity to perform substantial gainful activity.*

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## Example

- **12.05 Intellectual disorder (see 12.00B4), satisfied by A or B:**

- A. Satisfied by 1, 2, and 3 (see 12.00H):

1. Significantly subaverage general intellectual functioning evident in your cognitive inability to function at a level required to participate in standardized testing of intellectual functioning; and
2. Significant deficits in adaptive functioning currently manifested by your dependence upon others for personal needs (for example, toileting, eating, dressing, or bathing); and
3. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

- OR



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evidenced by a or b:

- a. A full scale (or comparable) IQ score of 70 or below on an individually administered standardized test of general intelligence; or
- b. A full scale (or comparable) IQ score of 71-75 accompanied by a verbal or performance IQ score (or comparable part score) of 70 or below on an individually administered standardized test of general intelligence; and
2. Significant deficits in adaptive functioning currently manifested by extreme limitation of one, or marked limitation of two, of the following areas of mental functioning:
  - a. Understand, remember, or apply information (see 12.00E1); or
  - b. Interact with others (see 12.00E2); or
  - c. Concentrate, persist, or maintain pace (see 12.00E3); or
  - d. Adapt or manage oneself (see 12.00E4); and
3. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

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## Reasons for Denial

- Non-cooperation
- Lack of treatment
- Insufficient medical evidence
- Evidence doesn't address issues of limitations
- Not financially eligible due to income or resources



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## Application and Appeals

- Apply in person at a local office, by phone (800) 772-1213 or online at [www.ssa.gov](http://www.ssa.gov)

### Appeals

- Request for Reconsideration
- Request for Hearing
- Request Review by the Appeals Council
- File for a Federal Court Review

60 days to file appeals / Good Cause for Late Filing  
10 days on cessation cases to continue benefits



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## Information needed

- Updated medical information
- Changes in medication
- Changes in daily living activities
- Notify changes in address, living situation, income and resources



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## Representation

- Representation is not required at any level but is recommended for a hearing before an Administrative Law Judge
- Representatives can only collect a fee if the claimant wins a favorable decision

Community Health Law Project <http://www.chlp.org>

National Organization of Social Security Claimants' Representatives (NOSSCR) 1-800-431-2804

SSI Project of Legal Services of New Jersey 1-877-576-5774

Your county Lawyers' Referral Service



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## Post Eligibility Issues

- Overpayments
- Cessations
  - Due to Work
  - Continuing Disability Review - Medical Improvement
- SSI Suspensions
  - Excess resources, income
  - Hospitalization/ Incarceration

Any change in benefits can be appealed. For non-disability issues, can request formal or informal conference, case review or hearing.

