

FILING A SOCIAL SECURITY DISABILITY APPEAL IN FEDERAL COURT

You just received an unfavorable decision from the Appeals Council. Due to limited resources, our office will not be able to represent you in federal court. If you want to appeal this decision, you must do so in federal court within **60 days** (plus 5 days for mailing) of the date on the Appeals Council decision.

This is a short time period so, even if you want an attorney, you should file a complaint within the 60 days by yourself. You can do that by filing it *pro se* which means you are filing it without an attorney. After you file the complaint, you'll have more time to look for legal assistance.

First you have to figure out which court to go to. Each court has one office in the five boroughs and one outside of the city. Which courthouse you should file with depends on where you live.

The Southern District of New York (SDNY) includes the counties of New York, Bronx, Westchester, Rockland, Putnam, Orange, Dutchess, and Sullivan.

The Eastern District of New York (EDNY) includes the counties of Kings, Nassau, Queens, Richmond, and Suffolk.

These are the addresses inside of the city. Check the court websites for addresses outside the city.

SDNY Courthouse
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

EDNY Courthouse
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

What to bring to the courthouse when you go to file your complaint *pro se*.

**A government-issued photo ID is required to enter the building;
The date of the Administrative Law Judge's unfavorable decision;
A copy of the decision you received from the Appeals Council; and
Proof of income so you can show you cannot afford to pay the filing fee.**

Both courts have a Pro Se Intake Unit where you can file your papers. Staff in the Pro Se Intake Unit may assist *pro se* litigants by explaining court procedures and filing requirements. The Pro Se Intake Unit also has a number of forms, instructions, and manuals that it provides to the public upon request.

SDNY Pro Se Intake Unit
500 Pearl Street, Room 200
New York, NY 10007
Ph: 212-805-0175
Hours: M-F 8:30-5:00

EDNY Pro Se Intake Unit
225 Cadman Plaza East, Room 118S
New York, NY 11201
Ph: 718-613-2665
Hours: M-F 8:30-5:00

How Do I Start a New Lawsuit Without an Attorney?

A lawsuit is started by filing a complaint. The SDNY requires you to submit an original and two exact copies of the complaint to the Pro Se Intake Unit. The EDNY requires you to submit an original and three exact copies of the complaint. You will need to attach the Appeals Council decision to each copy (make sure to whiteout your SSN on the decision). You will also need to either pay the \$400 filing fee or submit an application to proceed *in forma pauperis*. An application to proceed *in forma pauperis* is a financial statement you need to fill out to show you cannot afford to pay the \$400 filing fee. The judge will need to approve this fee waiver request. You will need to submit the original and copies of this fee waiver with the complaint (either two or three copies depending on whether you are filing in SDNY or EDNY).

The Pro Se Intake Unit has complaint forms you may use to file a social security disability appeal. Two other forms are needed upon filing: a civil cover sheet and summons. For cases delivered to the SDNY Pro Se Intake Unit in person in which a fee waiver is requested and for cases submitted by mail (whether the fee is paid or a fee waiver is requested) the Pro Se Intake Unit will complete both forms for you.

In total the things you need to file a SSA appeal in federal court are:

Complaint;
Appeals Council decision (with no SSN);
Application to proceed *in forma pauperis* (or \$400 filing fee);
Civil cover sheet; and
Summons.

You will receive the response to your fee waiver request by mail about 1-2 weeks after you file the complaint. If your fee waiver is granted then the U.S. Marshal will serve SSA with the papers. If it is not granted, you would have to pay the filing fee and serve the papers yourself. If you don't get a response by mail in 2 weeks, call the Pro Se Intake Unit to check on the status of the fee waiver.

Once the case receives a docket number and is assigned to a judge of this Court, the Pro Se Intake Unit will tell you what to do next. It is extremely important for you to inform the Pro Se Office of any change of address immediately and in writing. Keep in touch with the Intake Unit so you don't miss deadlines.

Legal Advice Clinics

In addition to Pro Se Units which help with forms, both courts have free legal advice clinics. The SDNY clinic is run by New York Legal Assistance Group and the EDNY clinic is run by the City Bar Justice Center. If you have problems completing the forms necessary to file an appeal and the Pro Se Unit cannot provide you with all the help you need, you should make an appointment at the legal advice clinic.

SDNY Legal Advice Clinic (Manhattan & Bronx Residents)

The NYLAG Legal Clinic for Pro Se Litigants in the Southern District of New York is a free legal clinic staffed by attorneys and paralegals to assist those who are representing themselves or planning to represent themselves in civil lawsuits. The Clinic, which is not part of or run by the Court, assists individuals with federal civil cases including social security benefits. The Clinic is in Room LL22 of the SDNY building. To make an appointment call 212-659-6190 or stop by during office hours 10:00-4:00. Come to the clinic office with the appropriate forms and the clinic might be able to refer you to the New York County Lawyers Association for free legal representation.

EDNY Legal Advice Clinic (Brooklyn, Queens, & Staten Island Residents)

The Federal Pro Se Legal Assistance Project of the City Bar Justice Center provides free, unbundled legal services to pro se litigants who cannot afford to hire an attorney. The Project assists individuals with claims arising in Brooklyn, Queens, Long Island and Staten Island. They are unable to assist incarcerated litigants at this time. Examples of their services include: brief legal counseling; advising litigants about potential federal claims prior to filing suit; interpreting and explaining federal rules and procedures; and reviewing draft pleadings and correspondence with the court. The Federal Pro Se Legal Assistance Project operates on-site at the EDNY courthouse. They assist pro se plaintiffs and defendants on a variety of federal legal issues, including social security benefits. To get help from the Project, call 212-382-4729 or go to www.citybarjusticecenter.org/projects/federal-pro-se-legal-assistance-project/.

Filing a New Application for SSA Benefits

When you were waiting for your case to be reviewed at the Appeals Council, you could not file a new application. Now that you are at the federal court level you can file a new application in addition to filing the appeal in federal court.