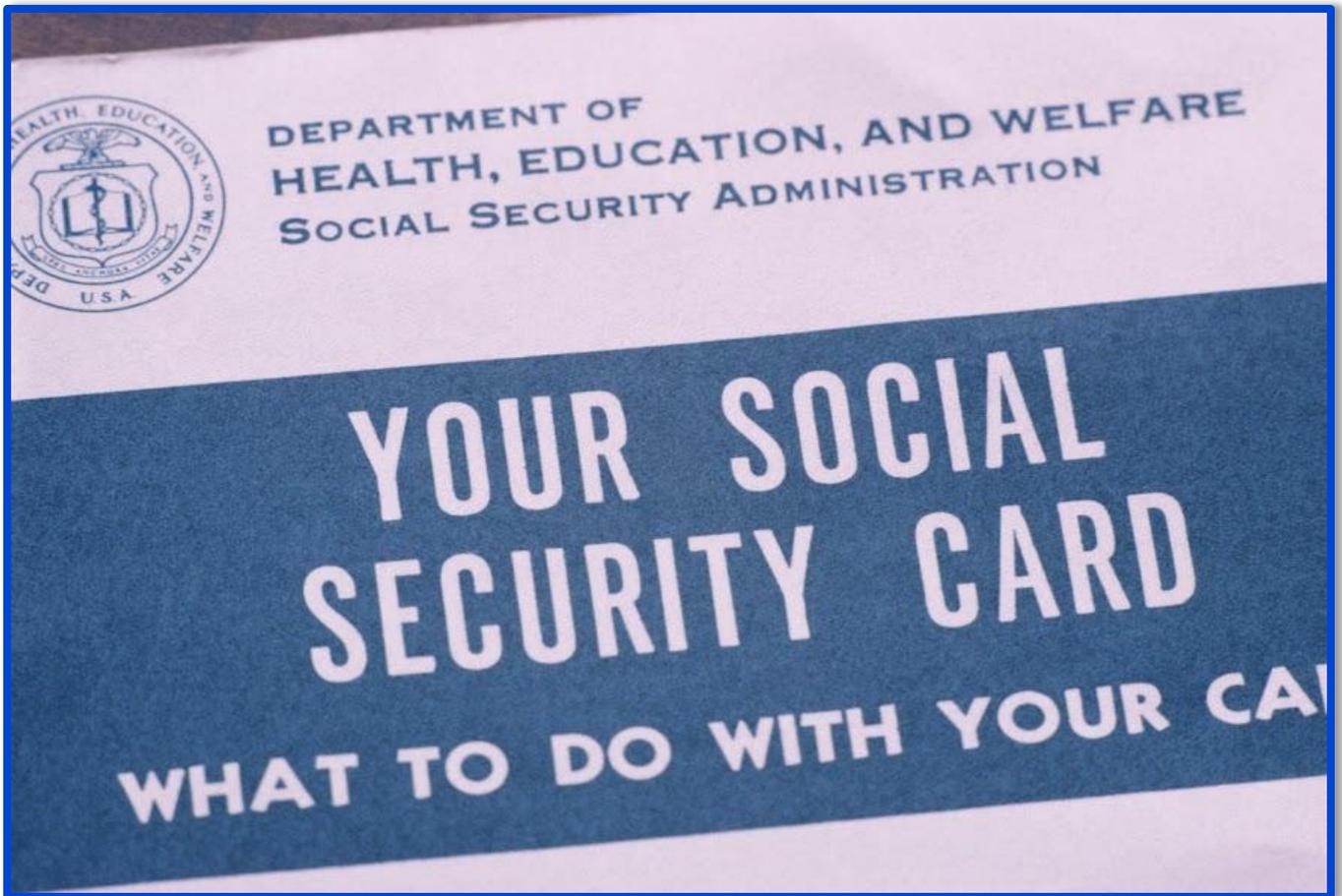


# APPEALING THE DENIAL OF A MISSOURI DISABILITY CLAIM

*“Being eligible for Social Security Disability Income, often referred to as SSDI, requires proof of a qualifying disability. The federal statutes define exactly what the term “disability” means.”*



**Wesley A. Cottrell**



Social Security Disability benefits are provided to those individuals who are unable to work due to a disability. Being eligible for Social Security Disability Income, often referred to as SSDI, requires proof of a qualifying disability. The federal statutes define exactly what the term “disability” means.

But even if you can prove your medical condition is covered, your claim still may not be accepted by the Social Security Administration. If your claim is denied, your next step is to appeal.

## The proof of disability required when a claim is initially filed



The Social Security Act defines a “disability” as 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 which has lasted or can be expected to last for a continuous period of not less than 12 months.

Many factors are considered by the Social Security Administration to determine whether a claimed condition qualifies and whether it is sufficiently severe to warrant an award of benefits. The SSA also considers the applicant’s age, education and work experience in determining whether he or she can still perform the work previously performed.

## Applying for Social Security Disability Income



Applicants must be able to prove they are disabled, through the information that is submitted with their application. Then the Social Security Administration decides, based only on the information provided in the application. Completing the required forms can be complicated and confusing. However, completion of these forms can go a long way toward getting your application approved the first time. Yet, there is no guarantee that it will be.

## What to do if your application is denied



If you receive a denial of benefits letter from the SSA, there is still hope. You can always appeal the decision. An appeal must be submitted in writing within 60 days from the date you receive the denial, and there

is a presumption that you received the letter within five days after it was sent. After a denial, there are three levels of appeal that can be navigated: hearing by an administrative law judge, review by the Appeals Council, and finally, review by a federal court.

## What to Expect at an Appeals Hearing

The basic purpose of the first appellate step, the appeals hearing, is to re-examine the “disability” issues. These typically include whether you are disabled, when your disability began and whether it has ended. The Administrative Law Judge (ALJ), who presides over the hearing, will be a neutral party who was not involved in the initial denial of your claim. At the hearing, you will have the

opportunity to present your case in person and provide new information to support your claim. You are also allowed to bring witnesses to testify on your behalf. After reviewing the evidence submitted at the hearing, the ALJ will issue a written copy of his decision.

## **Review by the Appeals Council**

If you are again denied benefits, following the appeals hearing, you can request further review by the Social Security Appeals Council.

The council will consider the request for review, but is not required to review your claim if it agrees with the ALJ's decision. Otherwise, the Council can either decide your case itself or require the ALJ to look at



the case again. The Council's decision will be sent to you in writing.

## The final step is to appeal to the federal court



If the Appeals Council upholds the ALJ's denial of your claim, or if they refuse to review your case at all, you can file a lawsuit in federal court. You only have 60 days from the Council's decision to file the lawsuit. The SSA cannot assist you in filing the lawsuit, so it is wise to obtain legal representation at this point, if you haven't already.

This part of the appeals process can take at least a year to complete. At this point, there are three possible outcomes: the case can be remanded to the ALJ for reconsideration; the court can affirm the ALJ's decision, to deny your claim; or the court can reverse the ALJ's decision and award you social security benefits.

If you think you may qualify for Social Security Disability Income, you need a social security attorney who understands the Social Security system, and how to submit an application that will be approved, or will work hard to obtain the benefits you deserve on appeal.



If you have questions regarding appealing a denial of your claim, or any other social security disability concerns, call the Cottrell Law Office at (800) 364-8305.

## About the Author



### Wesley A. Cottrell

Wesley A. Cottrell has been successfully practicing law for over 29 years. Born in Springdale, Arkansas and raised in Baxter Springs, Kansas, Wes is licensed to practice law in Arkansas, Kansas, Missouri, and Oklahoma.

Wes earned his B.A. from Pittsburg State University in 1981 and his J.D. from the Washburn University School of Law in Topeka, Kansas in 1985. He was admitted to practice law in Kansas in 1986, in Missouri in 1987, in Arkansas in 1989, and Oklahoma in 1993.

He is licensed to practice law in the United States District Court for the District of Kansas, eastern Arkansas, western Arkansas, and western Missouri. He was Deputy Prosecuting Attorney in Crawford County, Kansas from 1987-1989.

Wes lives in Rogers, Arkansas with his wife, Shelly, and their two daughters, Kennedy and Gabby. He is active in his community, and is regularly asked to teach courses to other attorney on personal injury and workers' compensation litigation.

#### Memberships and Associations:

National Organization of Social Security Representatives  
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Arkansas Bar Association  
The Missouri Bar  
Kansas Bar Association  
Oklahoma Bar Association  
Arkansas Trial Lawyers Association  
American Association of Justice

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