**KNOW YOUR LEGAL RIGHTS**

**Disability benefit hearings go remote. Should you?**

By Atty. Tom Durkin

If your application for Social Security Benefits or Supplemental Security Income was denied, you have the right to appeal through the hearing process. However, the hearing process changed after the COVID-19 pandemic forced mandatory in-person hearings in Milwaukee, Madison, and statewide to go remote beginning in March 2020.

Previously, if you did not show up for your hearing, your case would either be dismissed or the judge would issue an order to show “good cause” as to why you did not appear. The “good cause” standard can be high for some judges.

Since March 2020, that has all changed - and is likely changed permanently. Now you can simply request a telephone, video, or in-person hearing.

**The Basics**

Social Security will send you a form called the COVID-19 Remote Hearing Agreement Form. Do not dismiss this. If you lose it or don’t receive it, download it at [ssa.gov](http://www.ssa.gov).

You indicate on the form if you want your hearing by telephone, video, or in-person. Be sure to complete the form and return it promptly. Failure to do so will result in an in-person hearing, which you may or may not want, depending on your situation and your strategy. It may also delay the scheduling of your hearing.

**Telephone Hearings**

Right or wrong, good or bad, the majority of people are choosing telephone hearings.

The biggest advantage to a telephone hearing is that you can do it from home without having to travel to a hearing location. Additionally, telephone hearings are being scheduled faster than in-person hearings right now. That’s good, right? Not always.

The biggest disadvantage to a telephone hearing is that the judge cannot see you and cannot see how your condition affects you. A cane or a walker can provide visual evidence of your disability, and the same goes if you have trouble sitting or have mental health issues like anxiety or panic attacks. Having no visual evidence may be problematic to your case.

During a telephone hearing, you must be in a private location (not a public space such as a coffee shop) and you are not allowed to receive help with your testimony. You are also not allowed to record the hearing. Make sure you give the hearing office a correct phone number so they can reach you on the day of your hearing. Sounds simple enough, but if they can’t reach you, your hearing will be postponed or even dismissed.

**Video Hearings**

If you participate in a video hearing, you will need to download Microsoft Teams. Social Security will provide you with instructions on how to do this and how to participate in the video hearing. If you are not technically savvy, seek help.

The video hearing saves you travel time and expense. In this format, the judge will be able to see you. In my experience, there are occasional technical difficulties with the video hearings, making this less than ideal.

**Consult with Your Attorney**

Applying for SSDI or SSI is easier today than ever before, thanks to the convenience of technology. That said, you shouldn’t always opt for convenience – doing a telephone or video interview – when you should be doing an in-person interview. Your chance for approval may be greater during a face-to-face meeting.

Consult with an attorney who specializes in SSDI/SSI to give yourself the best shot of getting your benefits approved. You have waited a long time for your hearing. Make it count.

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