

PROCESS FOR A HEARING BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

HEARING THE APPEAL

[1] FIXING TIME AND PLACE

- 1.1 If a hearing is necessary, the Authority will set a time and place for the hearing.¹
- 1.2 The Secretary of the Authority will notify the parties of the hearing time and place as soon as possible, but not less than 10 working days before the day of the hearing.²
- 1.3 Generally, the appellant and the Ministry of Social Development (MSD), or their agent, are required to attend the hearing.
- 1.4 If the Authority requests the appellant to appear and be heard before it, and the appellant does so, MSD must pay the actual and reasonable travelling and accommodation expenses of the appellant.³
- 1.5 If an appellant does not want to attend a hearing, they should contact the Secretary of the Authority via post, delivery or email.
- 1.6 If the appellant or MSD is unable to attend the hearing, he or she must contact the Secretary of the Authority no later than three working days before the hearing commences and give reasons why he or she is unable to attend. If the Authority is satisfied the appellant or MSD has good reason for being unable to attend, the Authority may hold the hearing at a different fixed time or place. In exceptional circumstances, the hearing may be rescheduled less than three working days before it commences.
- 1.7 If [1.6] has not been complied with, the Authority may decide to:
 - (a) hear the appeal in the absence of the appellant or MSD; or
 - (b) hear the appeal on the papers, giving the party in attendance an opportunity to offer his or her oral argument, call his or her witnesses, and respond to the Authority's oral enquiries.
- 1.8 The Authority will not dismiss the appeal, or MSD's response to the appeal, solely due to the non-attendance of the appellant or MSD.

[2] REHEARING EVIDENCE

- 2.1 An appeal before the Authority is by way of rehearing. That means the Authority will rehear any evidence that was heard by the decision-maker in the original decision that is relevant to the issues on appeal.⁴

¹ Social Security Regulations 2018, reg 250(1)(a).

² Social Security Regulations 2018, reg 250(1)-(2).

³ Social Security Regulations 2018, reg 251.

⁴ Social Security Regulations 2018, reg 253(1).

[3] **HEARINGS IN PRIVATE**

- 3.1 Appeals before the Authority are heard in private.⁵
- 3.2 However, the Authority may determine that the hearing or any part of it may be open to the public if it is satisfied that the interests of the parties and all other persons will not be negatively affected.⁶

[4] **AUTHORITY MAY ASK QUESTIONS**

- 4.1 The Authority is deemed to be a Commission of Inquiry.⁷ This means it may ask questions of the parties before, during, or after any hearing of an appeal; require answers and documents to be provided; investigate; and call witnesses. The purpose of asking questions is to ensure a fair and a just outcome.
- 4.2 However, in general, it is the responsibility of the appellant to put forward and support their argument on appeal.

AFTER THE APPEAL

[5] **DECISION OF THE AUTHORITY**

- 5.1 When hearing an appeal, the Authority will consist of (at a minimum) the chairperson or deputy chairperson, and one other member of the Authority (together they are referred to as “the Authority”).⁸
- 5.2 The decision of the Authority will be the decision of the majority of the members sitting as the Authority. If the members sitting as the Authority are equally divided in opinion, the decision of the chairperson or the deputy chairperson will be the decision of the Authority.⁹
- 5.3 The Authority may decide to confirm (appeal dismissed), modify or reverse (appeal allowed in part or in whole) the decision or determination being appealed, or it may refer the matter, in part or in whole, back to MSD for further consideration.¹⁰
- 5.4 The Authority may indicate its decision at the conclusion of the appeal hearing. However, the signed and sealed decision of the Authority will be given to the appellant and MSD, with reasons for the decision, as soon as is practicable after the appeal hearing has concluded.¹¹ The signed and sealed decision is the final and conclusive determination of the Authority.

⁵ Social Security Act 2018, sch 8, cl 10(1).

⁶ Social Security Act 2018, sch 8, cl 10(3).

⁷ Social Security Act 2018, sch 8, cl 12.

⁸ Social Security Act 2018, sch 8, cl 9(2).

⁹ Social Security Act 2018, sch 8, cl 9(3)-(4).

¹⁰ Social Security Regulations 2018, reg 254.

¹¹ Social Security Act 2018, s 404.

[6] **PUBLICATION PROHIBITION**

- 6.1 It is unlawful for any person to publish any part of an appeal before the Authority without the prior consent or order of the Authority.¹² Any publication must comply with the Authority's order and the appellant's name will not be published. However, this does not prevent the parties giving a copy of the decision or any part of the appeal to another person who has a legitimate need for the information, such as family members, representatives such as lawyers or advocates, court staff, or other employees of MSD.

¹² Social Security Act 2018, sch 8, cl 11.