



Disability Rights Advocacy Service Inc

Second review

If you disagree with the AAT's outcome of the first review of Centrelink's decision, in some instances, you can appeal again if the letter from the first review states that this is possible, this is called a **second review**. In a second review, the AAT conducts a review of most first review decisions made by the Social Services & Child Support Division, so long as it is permitted. A second review is the second time the AAT will review a Centrelink Decision.

How to apply

Like the first review, you can apply online, by completing a form, email or letter.

If you write a letter or email, make sure to include:

- Your name, postal address and telephone number and email address
- The date you received the decision
- A copy of the decision
- Brief reasons why you think the decision is wrong

If you can't send a copy of the decision, make sure you include:

- That Centrelink made the decision
- A brief description of the decision
- The date of the decision

Time limits

Please note that **there is a time limit** when applying for a second review by the AAT. You must lodge an application **within 28 days** of receiving the first review decision.

If this time limit has expired, you can apply to the AAT to extend the time limit to lodge your application. You have to apply in writing and include reasons why the application is late. You can do this:

- when you lodge your application for review [online](#)
- by filling in an [Application for extension of time form](#) and sending it to the AAT with the [application for second review of decision form](#)
- by writing an email or letter.

After you apply for an extension of time, the AAT will send a copy of your extension application to Centrelink. They have 14 days to tell the AAT if they oppose the application. If they don't, the AAT will generally make a decision without holding a hearing. If they do oppose the application, the AAT will usually hold a hearing before deciding the application. The hearing might be by phone or in person at an AAT registry.

The AAT will only begin a review if they decide to extend the time limit.



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Is there an application fee?

There are no application fees for a second review for most Centrelink decisions. However, if the review is regarding Paid Parental Leave, then there is a fee. You can read more about this [here](#).

What happens after my application is lodged?

The AAT will send you a confirmation letter detailing the next steps. They will also notify other parties to the review that they have received your application. These other parties include Centrelink and, in some cases, other affected parties.

If the AAT can't review the decision

The AAT will write to you and give you the opportunity to tell them why you think they can review the decision. If you don't respond or can't show the AAT that they can review the decision, they may dismiss the application. Sometimes a hearing is held to decide if the AAT can review the decision.

Does the decision continue to operate during the review process?

The decision will usually continue to operate during the review process, but in some circumstances either you or Centrelink may wish to ask for an order that suspends the decision until the second review is finalized. You can read more about this [here](#).

Important Documents for the Review

The same documents are required for the Second Review as the First Review. You can see the list above on Page 2 of this document, or [here](#).

Alternative Dispute Resolution

The AAT uses alternative dispute resolution, which means they talk with the parties to the review about the decision and the issues in dispute, if possible help the parties reach an agreed outcome before the hearing and if an agreed outcome cannot be achieved, they will prepare for a hearing.

The AAT will usually hold a conference first. Many cases are resolved without need for a hearing. You can read more about what a conference is and how it works in this document below and you can read further information about the Alternative dispute resolution guidelines [here](#).

Directions hearing

The AAT might decide to hold a directions hearing by phone or in person at the AAT's office to discuss any issues in the review. This could happen upon request from you or Centrelink, or if the AAT decide its necessary.

Hearing

If the review is not resolved at an early stage, the AAT will usually hold a hearing where you have the opportunity to present information and talk about why you disagree with the Centrelink decision under review.

Assistance

Similarly, to what is stated in the above section about assistance and representation on page 3 of this document, you can either represent yourself or have someone represent you.



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Can I have an interpreter?

Yes, if you need an interpreter, you can let the AAT know and they will arrange for a qualified interpreter to assist, free of charge.

Can I have assistance because of a disability?

Yes, if you need assistance because of a disability you should contact the AAT as soon as possible and they will try to make arrangements to assist. If you are deaf or have a hearing or speech impairment, you can contact the AAT through the [National Relay Service](#).

Giving the AAT Information

As stated above on page 4 of this document, you can provide the AAT with new information that you believe supports your case.

Depending on the situation, the AAT may ask you for information they feel will assist them in making a decision.

For a Disability Support Pension Review, it is recommended that you provide:

- Evidence about the day to day things you can and cannot do because of your health condition. The Impairment Tables contain descriptions of day to day things relevant to an impairment rating
- Evidence from your doctor that gives an 'impairment rating' and identifies which Impairment Table they used and why
- Evidence about a mental health condition like depression or anxiety (if this applies to you) that include a diagnosis by a psychiatrist or evidence from a clinical psychologist.

You can send the AAT information about your case [online](#), [email](#), post or fax, or in person at an AAT registry.

You can view the AAT's contact details [here](#).

Hints about giving the AAT Information

- Send information to the AAT electronically, if possible,
- If you go to one of the AAT registries to provide information, give them a hard copy to keep,
- If documents are not in English, you should also provide the AAT with a translated copy by an accredited translator.

Conferences

What is a conference?

A conference is an informal, private meeting arranged by the AAT to discuss your case. It will be conducted by an AAT Conference Registrar, and will be attended by:

- You or your representative,
- A representative of Centrelink,
- Any other relevant party to the review.



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If you'd like to, you can bring a support person, such as a friend or family member.

Where and when will the conference be held?

Usually, a conference will be held between 6 and 10 weeks after the AAT receives your application. It may be held in person at an [AAT registry](#) or by phone.

The AAT will send you a letter with the date, time and location of the conference.

Usually, a conference will last about 30 to 45 minutes, but can last up to an hour or longer.

What If I cannot attend the conference?

If you are unable to attend the conference, you should tell the AAT immediately and they may be able to change the date.

If you don't attend the conference and you don't have a good reason, the AAT may dismiss the application.

How to prepare for the conference

Representation

You don't need a lawyer at the AAT, however if you want legal advice or representation, this must be arranged before the conference.

Statement of Issues

If you have a representative, your representative needs to prepare a Statement of Issues that lists the issues you think are in dispute in the application. The statement must be sent to the AAT and Centrelink, and any other party to the issue, at least 7 days before the first conference. Centrelink will also prepare a Statement of Issues and send it to you.

Documents and evidence

Prior to the conference, you should read through all the documents you've been given, including the T documents. You and Centrelink must also think about what other evidence might be relevant to the case and if possible send it to the AAT and Centrelink before the conference, or make arrangements to get the evidence.

If you have a representative, they and Centrelink must consider whether an expert report is likely to be obtained and if this is necessary, an appointment with the specialist must be arranged before the first conference. You must ensure that the expert is given or already has a copy of the AAT's [Persons giving expert opinion evidence guideline](#) and in Disability Support Pension Cases, a copy, or clear reference to the relevant parts of the Impairment Tables for the claim.



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What happens at the conference?

The Conference Registrar will help you and Centrelink to:

- Talk about why the decision was made and define the issues in dispute,
- Consider any new evidence, and identify any further evidence that will be gathered,
- Discuss strengths and weaknesses of your case and Centrelink's case and explore whether an agreed outcome can be reached,
- Talk about what happens next.

What happens if there is an agreed outcome?

If you and Centrelink are able to come to an agreement about the decision, the terms of the agreement must be put in writing, signed by all the parties and sent to the AAT. You can read more about what happens if you come to an agreement [here](#).

If you are the applicant, you may decide you want to withdraw your application after the conference. Look at [Can I withdraw an application](#) for information on how to do this.

What happens if there is no agreed outcome?

If you and Centrelink do not meet an agreed outcome during the conference, the AAT might:

- Hold a second conference, or
- List the application for a hearing

The Conference Registrar may ask or direct you or Centrelink to give them more information. If this happens, you must provide them with the information they ask for by the date they tell you. The AAT does not make a final decision at a conference.

Second Conferences

If the AAT hold a second conference, they will:

- Talk about the progress of the review and any new issues
- Consider any new evidence
- Discuss the strengths and weaknesses of each party's case to try and help you reach an agreed outcome or narrow the issues in dispute
- If an agreed outcome cannot be reached, talk about listing the application for a hearing.

Hearing

What is a hearing?

The hearing is an opportunity for you to present information and arguments to the AAT about the Centrelink decision under review. You will be able to talk about why you disagree with the decision.

The hearing is relatively informal and will usually be conducted by one Tribunal Member. The Member is the person who will make a decision about the review.



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The AAT will hold a hearing if the review has not been resolved at an earlier stage in the review process, such as at a conference.

When and where will the hearing be held?

The AAT will write to you and tell you the time, date and location of the hearing. In many reviews, it will be held in a hearing room at an AAT registry. You may be able to attend the hearing by phone, or by videoconference.

Who will be at the hearing?

As well as you, there will be:

- The Member(s)
- An AAT staff member
- A representative of Centrelink
- Any other person who is a party to the issue

There might also be:

- Your representative, such as a lawyer, an advocate or other professional person
- A support person such as a friend or family member
- Any witnesses that you or any other party have asked to give evidence

How to address members

You may address an AAT member by:

- Their title (e.g. Deputy President, Senior Member, or Member)
- Names (e.g. Ms. Smith)
- A combination of both (Senior Member Smith)

Some members of the AAT are judges, including the President. They may be addressed as 'Your Honour'. The President may also be addressed as 'President'.

A member's title and name will usually be displayed in the hearing room, directly in front of the member.

Can I have an interpreter for the hearing?

Yes, if you need someone to interpret for you, the AAT will arrange and pay for a qualified interpreter to attend the hearing. A relative or friend is not permitted to interpret for you.

Is the hearing open to the public?

Yes, hearings are usually open to the public, however the AAT can order that the hearing be held in private if there is a good reason to do so. You can apply for such an order by telling the AAT in writing why you require a private hearing.



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Audio, video or photography equipment (including phones), or any other recording devices are prohibited on AAT premises, including in public areas. All devices must be fully turned off before entering a hearing room.

How can you prepare for a hearing?

- Record the date, time and location of the hearing
- Plan to arrive early on the day or to be ready to receive the call at the start time
- Tell the AAT if you would like a witness to attend or if you require an interpreter
- Provide the AAT with any new information, no later than 14 days before the hearing
- You can send the AAT a written summary of your position no later than 7 days before the hearing
- Read all the documents you have been given and write down the things you want to talk about
- Make sure you have all the documents at the hearing.

A copy of any new information must also be sent to the representative of Centrelink before the hearing. You should use the contact information in the letter they sent you.

What happens at a hearing?

- The Member will explain what will happen during the hearing
- If represented by a professional person like a lawyer or an advocate, they will usually speak on your behalf
- The Member might ask Centrelink's representative to talk briefly about the main issues in the review
- You will be asked to take an oath or make an affirmation that you will tell the truth at the meeting
- You will have an opportunity to present information and arguments about the decision under review, and the Member and Centrelink's representative can ask you questions
- Any witnesses will be asked to give evidence. You, Centrelink's representative, and the Member can ask questions of each witness
- You and Centrelink's representative will have an opportunity to give a brief summary of all the main arguments in the review.

The length of the hearing will depend on the case, many hearings are finished in under 3 hours, but they can take longer.

You might receive the AAT's decision at the end of the hearing, or at a later date. The AAT will make an audio recording of the hearing.

What happens if you do not attend the hearing?

The AAT may dismiss your application if you are the applicant, or they may make a decision without you. If the application is dismissed because you did not attend the hearing, you can ask the AAT to reinstate the application. A request must be made within 28 days after you were notified that the



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application was dismissed. Read more about that reinstating an application or needing to change the date of a hearing [here](#).

What if you do not want to attend the hearing?

You can tell the AAT that you do not want to attend the hearing and if Centrelink's representative agrees, the AAT might decide based on the information they have.

If you don't attend the hearing you will not be able to tell the AAT your version of events.

Decision

When will you receive a decision?

The AAT will usually make a decision after conducting a hearing. You will receive their decision either at the end of a hearing or at a later date in writing.

Oral decision at the end of the hearing

The AAT may tell you their decision and the reasons for that decision at the end of the hearing, called an oral decision. The AAT will send you, Centrelink and any other relevant party, a notice that sets out their decision without written reasons. If you want a written copy of the reasons, you must ask the AAT within 28 days after receiving notice of the decision. A copy is sent to you, Centrelink and any other relevant party.

Decision in writing

If the AAT do not tell you their decision at the hearing, they will usually send a notice of the decision and the written reasons within 2 months after the hearing. A copy is also sent to Centrelink and any other party.

What does the decision mean?

Similarly to the decisions made in a first review, the AAT can make the following decisions:

- **Affirm** the original decision: the decision is not changed
- **Vary** the original decision: the decision is changed in some way
- **Set aside** the original decision and substitute a new decision: the decision is replaced with a new decision
- **Set aside and remit** the original decision: the matter is sent back to Centrelink to make a new decision.

What happens next

Centrelink must implement the AAT's decision or lodge an appeal with the Federal Circuit Court within 28 days after receiving their decision. Any other party to the review can also lodge an appeal.

If Centrelink has not put the AAT's decision into action, and there has been no appeal after the 28 days, you should contact the person who represented Centrelink at the hearing. They should be able to explain why there may be a delay. You can also contact the [Commonwealth Ombudsman](#) if you are unhappy with the delay.



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If you disagree with the AAT's decision

If you disagree with their decision, you can appeal to the Federal Court, but only on a question of law. An appeal to the [Federal Court](#) must be made within 28 days after receiving the decision.

How can DRAS help you?

Depending upon your situation, we may be able to help you understand your rights to appeal decisions, both internally and externally. We can provide information to assist you to understand the process, possibly help you navigate the independent appeals tribunal and potentially liaise with officers and members, and advocate for you to be treated fairly.

We can provide you with information to help you and your medical team understand the eligibility requirements and required evidence. We can also help you explore your right to legal representation as DRAS cannot provide legal representation or advice. Our advocates **are not** case managers, support workers, mediators, accountants, or lawyers. We give general advice that is not legal or financial advice.

Further information

About the AAT: [\(139\) About the AAT - YouTube](#)

Applying for a review: [\(139\) Applying for a Review at the AAT - YouTube](#)

After an application is lodged: [\(139\) After an application is lodged at the AAT - YouTube](#)

Attending a Conference: [\(139\) Attending a Conference at the AAT - YouTube](#)

Attending a Hearing: [\(139\) Attending a hearing at the AAT - YouTube](#)

Decisions: [\(139\) Decisions made by the AAT - YouTube](#)