

§ 219.62 When evidence of “good cause” is required.

The principle of “good cause”, as defined in part 217 of this chapter, is applied by the Board in determining whether to allow an application which is submitted more than two years after the employee’s death as acceptable for the lump-sum death payment or for an annuity unpaid at death, or to accept the proof of support required for entitlement to a parent’s annuity if such proof is filed more than two years after the employee’s death.

§ 219.63 What evidence is required to establish “good cause”.

The Board will ask for the following evidence of “good cause”:

- (a) The claimant’s signed statement explaining why he or she did not file the application for lump-sum death payment or annuity unpaid at death or the parent’s proof of support within the specified two-year period.
- (b) If the statement in paragraph (a) of this section or other evidence raises a reasonable doubt as to whether there was good cause, other convincing evidence to establish “good cause”.

§ 219.64 When evidence may be required for other reasons.

- (a) The Board will require evidence of the appointment of a legal representative when—
 - (1) The employee’s estate is entitled to a lump-sum death payment, annuity unpaid at death, or residual lump sum, and an executor or administrator has been appointed for the estate; or
 - (2) A minor child or incompetent is entitled to an annuity or lump-sum payment and a guardian, trustee, committee, or conservator has been appointed to act in his or her behalf.
- (b) The Board will require evidence of an annuitant’s earnings when the information that he or she furnished the Board does not agree with the earnings data furnished by the Social Security Administration or secured from other sources, and the annuitant maintains that the earnings data from the Social Security Administration or from other sources is not correct.
- (c) The Board will require evidence to establish the amounts paid as a public service pension, public disability ben-

efit, or worker’s compensation to an employee, spouse, widow, or widower when the pension, public disability benefit, or worker’s compensation affects the amount of his or her annuity.

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(d) The Board will require evidence to reconcile discrepancies between the information furnished by the claimant and information already in the records of the Board, the Social Security Administration, or other public agencies. Such discrepancies may be differences in name, date or place of birth, periods of employment, or other identifying data.

§ 219.65 Other types of evidence that may be required.

- (a) The Board may ask for a statement from an employer listing the annuitant’s earnings by months and explaining any payments made to the annuitant when he or she was not working.
- (b) The Board may ask for copies of award notices from a public agency showing the amounts of periodic payments and the period covered by each payment.
- (c) The Board may ask for a statement from the applicant explaining discrepancies and may ask for sworn statements from persons who have personal knowledge of the facts or for any other convincing evidence.
- (d) The Board may ask for proof of the court appointment of a legal representative, such as:
 - (1) Certified copy of letters of appointment;
 - (2) “Short” certificate;
 - (3) Certified copy of order of appointment; or
 - (4) Any official document issued by the clerk or other proper official of the appointing court.

PART 220—DETERMINING DISABILITY

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APPENDIX 1 TO PART 220—LISTING OF IMPAIRMENTS

APPENDIX 2 TO PART 220—MEDICAL-VOCATIONAL GUIDELINES

APPENDIX 3 TO PART 220—RAILROAD RETIREMENT BOARD OCCUPATIONAL DISABILITY STANDARDS

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Subpart A—General

§ 220.1 Introduction of part.

(a) This part explains how disability determinations are made by the Railroad Retirement Board. In some determinations of disability entitlement, as described below, the Board makes the decision of disability under the Railroad Retirement Act based on the regulations set out in this part. However, in certain other determinations of disability entitlement (as also described below) the Board has the authority to decide whether the claimant is disabled as that term is defined in the Social Security Act and the regulations of the Social Security Administration.

(b) In order for a claimant to become entitled to a railroad retirement annuity based on disability for his or her regular railroad occupation, or to become entitled to a railroad retirement annuity based on disability for any regular employment as an employee, widow(er), or child, he or she must be disabled as those terms are defined in the Railroad Retirement Act. In order

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for a claimant to become entitled to a period of disability, to early Medicare coverage based on disability, to benefits under the social security overall minimum, or to a disability annuity as a surviving divorced spouse or remarried widow(er), the claimant must be found disabled as that term is defined in the Social Security Act.

§ 220.2 The basis for the Board's disability decision.

(a) The Board makes disability decisions for claims of disability under the Railroad Retirement Act. These decisions are based either on the rules contained in the Board's regulations in this part or the rules contained in the regulations of the Social Security Administration, whichever is controlling.

(b) A disability decision is made only if the claimant meets other basic eligibility requirements for the specific disability benefit for which he or she is applying. For example, a claimant for an occupational disability annuity must first meet the eligibility requirements for that annuity, as explained in part 216 of this chapter, in order for the Board to make a disability decision.

§ 220.3 Determinations by other organizations and agencies.

Determinations of the Social Security Administration or any other governmental or non-governmental agency about whether or not a claimant is disabled under the laws, regulations or standards administered by that agency shall be considered by the Board but are not binding on the Board.

Subpart B—General Definitions of Terms Used in This Part

§ 220.5 Definitions as used in this part.

Act means the Railroad Retirement Act of 1974.

Application refers only to a form described in part 217 of this chapter.

Board means the Railroad Retirement Board.

Claimant means the person for whom an application for an annuity, period of disability or Medicare coverage is filed.

Eligible means that a person would meet all the requirements for payment of an annuity but has not yet applied.

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Employee is defined in part 203 of this title.

Entitled means that a person has applied and has proven his or her right to have the annuity, period of disability, or Medicare coverage begin.

Medical source refers to both a treating source and a source of record.

Review physician means a medical doctor either employed by or under contract to the Board who upon request reviews medical evidence and provides medical advice.

Social security overall minimum refers to the provision of the Railroad Retirement Act which guarantees that the total monthly annuities payable to an employee and his or her family will not be less than the total monthly amount which would be payable under the Social Security Act if the employee's railroad service were credited as employment under the Social Security Act.

Source of record means a hospital, clinic or other source that has provided a claimant with medical treatment or evaluation, as well as a physician or psychologist who has treated or evaluated a claimant but does not have an ongoing relationship with him or her.

Treating source means the claimant's own physician or psychologist who has provided the claimant with medical treatment or evaluation and who has an ongoing treatment relationship with him or her.

Subpart C—Disability Under the Railroad Retirement Act for Work in an Employee's Regular Railroad Occupation

§ 220.10 Disability for work in an employee's regular railroad occupation.

(a) In order to receive an occupational disability annuity an eligible employee must be found by the Board to be disabled for work in his or her regular railroad occupation because of a permanent physical or mental impairment. In this subpart the Board describes in general terms how it evaluates a claim for an occupational disability annuity. In accordance with section 2(a)(2) of the Railroad Retirement Act this subpart was developed with the cooperation of employers and