

§ 220.15

(6) The evidence consists of objective findings of exams that have poor reliability or validity;

(7) The evidence consists of imaging findings which are nonspecific and largely present in the general population;

(8) The evidence consists of a residual functional capacity evaluation which is supported by limited objective data without consideration for functional capacity testing.

[63 FR 7542, Feb. 13, 1998]

§ 220.15 Effects of work on occupational disability.

(a) *Disability onset when the employee works despite impairment.* An employee who has stopped work in his or her regular occupation due to a permanent physical or mental impairment(s) may make an effort to return to work in his or her regular occupation. If the employee is subsequently forced to stop that work after a short time because of his or her impairment(s), the Board will generally consider that work as an unsuccessful work attempt. In this situation, the Board may determine that the employee became disabled for work in his or her regular occupation before the last date the employee worked in his or her regular occupation. No annuity will be payable, however, until after the last date worked.

(b) *Occupational disability annuitant work restrictions.* The restrictions which apply to an annuitant who is disabled for work in his or her regular occupation are found in §§ 220.160 through 220.164.

§ 220.16 Responsibility to notify the Board of events which affect disability.

If the annuitant is entitled to a disability annuity because he or she is disabled for work in his or her regular occupation, the annuitant should promptly tell the Board if—

(a) His or her impairment(s) improves;

(b) He or she returns to any type of work;

(c) He or she increases the amount of work; or

(d) His or her earnings increase.

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§ 220.17 Recovery from disability for work in the regular occupation.

(a) *General.* Disability for work in the regular occupation will end if—

(1) There is medical improvement in the annuitant's impairment(s) to the extent that the annuitant is able to perform the duties of his or her regular occupation; or

(2) The annuitant demonstrates the ability to perform the duties of his or her regular occupation. The Board provides a trial work period before terminating a disability annuity because of the annuitant's return to work.

(b) *Definition of the trial work period.* The trial work period is a period during which the annuitant may test his or her ability to work and still be considered occupationally disabled. It begins and ends as described in paragraph (e) of this section. During this period, the annuitant may perform "services" (see paragraph (c) of this section) in as many as 9 months, but these months do not have to be consecutive. The Board will not consider those services as showing that the annuitant's occupational disability has ended until the annuitant has performed services in at least 9 months. However, after the trial work period has ended, the Board will consider the work the annuitant did during the trial work period in determining whether the annuitant's occupational disability has ended at any time after the trial work period.

(c) *What the Board means by services in an occupational disability case.* When used in this section, "services" means any activity which, even though it may not be substantial gainful activity as defined in § 220.141, is—

(1) Done by a person in employment or self-employment for pay or profit, or is the kind normally done for pay or profit; and

(2) The activity is a return to the same duties of the annuitant's regular occupation or the activity so closely approximates the duties of the regular occupation as to demonstrate the ability to perform those duties.

(d) *Limitations on the number of trial work periods.* The annuitant may have only one trial work period during each period in which he or she is occupationally disabled.