

consistent with those of sustained medium work activity, but another person with the same disorder, because of pain, may not be capable of more than the physical demands consistent with those of light work activity on a sustained basis. In assessing the total limiting effects of the claimant's impairment(s) and any related symptoms, the Board will consider all of the medical and nonmedical evidence, including the information described in §220.114 of this part.

[68 FR 60293, Oct. 22, 2003]

**§ 220.121 Responsibility for assessing and determining residual functional capacity.**

(a) For cases at the initial or reconsideration level, the responsibility for determining residual functional capacity rests with the bureau of retirement claims. This assessment is based on all the evidence the Board has, including any statements regarding what the claimant can still do that have been provided by treating or examining physicians, consultative physicians, or any other physician designated by the Board. In any case where there is evidence which indicates the existence of a mental impairment, the bureau of retirement claims will not make a residual functional capacity determination without making every reasonable effort to ensure that a qualified psychiatrist or psychologist has provided a medical review of the case.

(b) For cases at the hearing level or the three-member-Board review level, the responsibility for deciding residual functional capacity rests with the hearings officer or the three-member Board, respectively.

**Subpart K—Vocational Considerations**

**§ 220.125 When vocational background is considered.**

(a) *General.* The Board will consider vocational factors when the claimant is applying for—

- (1) An employee annuity based on disability for any regular employment; (See §220.45(b))
- (2) Widow(er) disability annuity; or
- (3) Child's disability annuity based on disability before age 22.

(b) *Disability determinations in which vocational factors must be considered along with medical evidence.* When the Board cannot decide whether the claimant is disabled on medical evidence alone, the Board must use other evidence.

(1) The Board will use information from the claimant about his or her age, education, and work experience.

(2) The Board will consider the doctors' reports, and hospital records, as well as the claimant's own statements and other evidence to determine a claimant's residual functional capacity and how it affects the work the claimant can do. Sometimes, to do this, the Board will need to ask the claimant to have special examinations or tests. (See §220.50.)

(3) If the Board finds that the claimant can no longer do the work he or she has done in the past, the Board will determine whether the claimant can do other work (jobs) which exist in significant numbers in the national economy.

**§ 220.126 Relationship of ability to do work and residual functional capacity.**

(a) If the claimant can do his or her previous work (his or her usual work or other applicable past work), the Board will determine he or she is not disabled.

(b) If the residual functional capacity is not enough for the claimant to do any of his or her previous work, the Board must still decide if the claimant can do any other work. To determine whether the claimant can do other work, the Board will consider the claimant's residual functional capacity, and his or her age, education, and work experience. Any work (jobs) that the claimant can do must exist in significant numbers in the national economy (either in the region where he or she lives or in several regions of the country).

**§ 220.127 When the only work experience is arduous unskilled physical labor.**

(a) *Arduous work.* Arduous work is primarily physical work requiring a high level of strength or endurance. The Board will consider the claimant