

(c) *Laboratory findings* are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.) x-rays, and psychological tests.

§ 220.114 Evaluation of symptoms, including pain.

The Board considers all of the claimant's symptoms, including pain, and the extent to which signs and laboratory findings confirm these symptoms. The Board will not find the claimant disabled based on his or her symptoms unless medical signs or findings show a medical impairment that could be reasonably expected to produce those symptoms.

§ 220.115 Need to follow prescribed treatment.

(a) *What treatment the claimant must follow.* In order to get a disability annuity, the claimant must follow treatment prescribed by his or her physician if this treatment can restore the claimant's ability to work.

(b) *When the claimant does not follow prescribed treatment.* If the claimant does not follow the prescribed treatment without a good reason, the Board will find him or her not disabled or, if the claimant is already receiving a disability annuity, the Board will stop paying the annuity.

(c) *Acceptable reasons for failure to follow prescribed treatment.* The following are examples of a good reason for not following treatment:

(1) The specific medical treatment is contrary to the established teaching and tenets of the claimant's religion.

(2) The prescribed treatment would be cataract surgery for one eye, when there is an impairment of the other eye resulting in a severe loss of vision and is not subject to improvement through surgery.

(3) Surgery was previously performed with unsuccessful results and the same surgery is again being recommended for the same impairment.

(4) The treatment because of its magnitude (e.g., open heart surgery), un-

usual nature (e.g., organ transplant), or other reason is very risky for the claimant.

(5) The treatment involves amputation of an extremity, or a major part of an extremity.

Subpart J—Residual Functional Capacity

§ 220.120 Residual functional capacity, defined.

(a) *General.* (1) The claimant's impairment(s) may cause physical and mental limitations that affect what the claimant can do in a work setting. Residual functional capacity is what the claimant can do despite his or her limitations. If the claimant has more than one impairment, the Board will consider all of his or her impairments of which the Board is aware. The Board considers the claimant's capacity for various functions as described in the following paragraphs: (b) physical abilities, (c) mental impairments, and (d) other impairments. Residual functional capacity is a medical assessment. However, it may include descriptions (even the claimant's) of the limitations that go beyond the symptoms that are important in diagnosis and treatment of the claimant's medical impairment(s) and may include observations of the claimant's work limitations in addition to those usually made during formal medical examinations.

(2) The descriptions and observations of the limitations, when used, must be considered along with the rest of the claimant's medical records to enable the Board to decide to what extent the claimant's impairment(s) keeps him or her from performing particular work activities.

(3) The assessment of the claimant's residual functional capacity for work is not a decision on whether the claimant is disabled, but is used as the basis for determining the particular types of work the claimant may be able to do despite his or her impairment(s). A claimant's vocational background (see §§ 220.125 through 220.134) is considered along with his or her residual functional capacity in arriving at a disability decision.

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(b) *Physical abilities.* When the Board assesses the claimant's physical abilities, the Board assesses the severity of his or her impairment(s) and determines his or her residual functional capacity for work activity on a regular and continuing basis. The Board considers the claimant's ability to do physical activities such as walking, standing, lifting, carrying, pushing, pulling, reaching, handling, and the evaluation of other physical functions. A limited ability to do these things may reduce the claimant's ability to do work.

(c) *Mental impairments.* When the board assesses a claimant's mental impairment(s), the Board considers the factors, such as—

(1) His or her ability to understand, to carry out, and remember instructions; and

(2) His or her ability to respond appropriately to supervision, co-workers, and work pressures in a work setting.

(d) *Other impairments.* Some medically determinable impairments, such as skin impairments, epilepsy, and impairments of vision, hearing, or other senses, postural and manipulative limitations, and environmental restrictions do not limit physical exertion. If the claimant has this type of impairment, in addition to one that affects physical exertion, the Board considers both in deciding his or her residual functional capacity.

§ 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 psychia-

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trist 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.