

Subpart N—Trial Work Period and Reentitlement Period for Annuitants Disabled for Any Regular Employment

§ 220.170 The trial work period.

(a) *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 disabled. The trial work period begins and ends as described in paragraph (e) of this section. During this period, the annuitant may perform “services” (see paragraph (b) 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 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 disability has ended at any time after the trial work period.

(b) *What the Board means by services.* When used in this section, “services” means any activity, even though it is not substantial gainful activity, which is done by the annuitant in employment or self-employment for pay or profit, or is the kind normally done for pay or profit. If the annuitant is employed, the Board will consider his or her work to be “services” if in any calendar year after 1989 the annuitant earns more than \$200 a month (\$75 a month is the figure for earnings in any calendar year before 1989). If the annuitant is self-employed, the Board will consider his or her activities “services” if in any calendar year after 1989 the annuitant’s net earnings are more than \$200 a month, (\$75 a month is the figure for earnings in any calendar year before 1989), or the annuitant works more than 40 hours a month in the business in any calendar year after 1989 (15 hours a month is the figure for calendar years before 1990). The Board generally does not consider work to be “services” when it is done without remuneration or merely as therapy or training, or when it is work usually done in a daily routine around the house, or in self-care.

(c) *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 disabled for any regular employment as defined in § 220.26.

(d) *Who is and is not entitled to a trial work period.* (1) Generally, the annuitant is entitled to a trial work period if he or she is entitled to an annuity based on disability.

(2) An annuitant is not entitled to a trial work period if he or she is in a second period of disability for which he or she did not have to complete a waiting period before qualifying for a disability annuity.

(e) *Payment of the disability annuity during the trial work period.* (1) The disability annuity of an employee, child, or widow(er) who is disabled for any regular employment will not be paid for any month in the trial work period in which the annuitant works for an employer covered by the Railroad Retirement Act (see § 220.160).

(2) The disability annuity of an employee who is disabled for any regular employment will not be paid for any month in this period in which the employee annuitant earns more than \$400 in employment or self-employment (see § 220.161 and § 220.164).

(3) If the disability annuity for an employee, child, or widow(er) who is disabled for any regular employment is stopped because of work during the trial work period, and the disability annuitant discontinues that work before the end of the trial work period, the disability annuity may be started again without a new application and a new determination of disability.

(f) *When the trial work period begins and ends.* (1) The trial work period begins with whichever of the following calendar months is the later—

- (i) The annuity beginning date;
- (ii) The month after the end of the appropriate waiting period; or
- (iii) The month the application for disability is filed.

(2) The trial work period ends with the close of whichever of the following calendar months is the earlier—

- (i) The 9th month (whether or not the months have been consecutive) in which the annuitant performed services; or

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(ii) The month in which new evidence, other than evidence relating to any work the annuitant did during the trial work period, shows that the annuitant is not disabled, even though he or she has not worked a full 9 months. The Board may find that the annuitant's disability has ended at any time during the trial work period if the medical or other evidence shows that the annuitant is no longer disabled.

§ 220.171 The reentitlement period.

(a) *General.* (1) The reentitlement period is an additional period after the 9 months of trial work during which the annuitant may continue to test his or her ability to work if he or she has a disabling impairment(s).

(2) The disability annuity of an employee, child, or widow(er) who is disabled for any regular employment will not be paid for—

(i) Any month, after the 3rd month, in this period in which the annuitant does substantial gainful activity; or

(ii) Any month in this period in which the annuitant works for an employer covered by the Railroad Retirement Act (see § 220.160).

(3) The disability annuity of an employee who is disabled for any regular employment will not be paid for any month in this period in which the employee annuitant earns more than \$400 in employment or self-employment (see § 220.161 and § 220.164).

(4) If the disability annuity of an employee, child or widow(er) who is disabled for any regular employment is stopped because of work during the trial work period or reentitlement period, and the disability annuitant discontinues that work before the end of either period, the disability annuity may be started again without a new application or a new determination of disability.

(b) *When the reentitlement period begins and ends.* The reentitlement period begins with the first month following completion of nine months of trial work but cannot begin earlier than December 1, 1980. It ends with whichever is earlier—

(1) The month before the first month in which the annuitant's impairment(s) no longer exists or is not medically disabling; or

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(2) The last day of the 36th month following the end of the annuitant's trial work period.

(c) *When the annuitant is not entitled to a reentitlement period.* The annuitant is not entitled to a reentitlement period if—

(1) He or she is not entitled to a trial work period; or

(2) His or her disability ended before the annuitant completed nine months of trial work in that period in which he or she was disabled.

Subpart O—Continuing or Stopping Disability Due to Substantial Gainful Activity or Medical Improvement

§ 220.175 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 any regular employment, the annuitant should promptly tell the Board if—

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

(b) He or she returns to work;

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

(d) His or her earnings increase.

§ 220.176 When disability continues or ends.

There is a statutory requirement that, if an annuitant is entitled to a disability annuity, the annuitant's continued entitlement to such an annuity must be reviewed periodically until the employee or child annuitant reaches age 65 and the widow(er) annuitant reaches age 60. When the annuitant is entitled to a disability annuity as a disabled employee, disabled widow(er) or as a person disabled since childhood, there are a number of factors to be considered in deciding whether his or her disability continues. The Board must first consider whether the annuitant has worked and, by doing so, demonstrated the ability to engage in substantial gainful activity. If so, the disability will end. If the annuitant has not demonstrated the ability to engage in substantial gainful activity, then the Board must determine