based on medically acceptable clinical and laboratory diagnostic techniques. If the claimant has more than one impairment, but none of the impairments, by themselves, is medically disabling, the Board will review the signs, symptoms, and laboratory findings of all of the impairments to determine whether the combination of impairments is medically disabling. In general, impairments that the Board considers to be medically disabling are:

1. Permanent;
2. Expected to result in death; or
3. Have a specific length of duration.

(b) Diagnosis of impairments. A diagnosis of a particular impairment is not sufficient for a finding of medical disability, unless the diagnosis is supported by medical findings that are based on medically acceptable clinical and laboratory techniques.

(c) Addiction to alcohol or drugs. If a claimant has a condition diagnosed as addiction to alcohol or drugs, this condition will not, by itself, be a basis for determining whether the claimant is, or is not, disabled. As with any other medical condition, the Board will decide whether the claimant is disabled based on symptoms, signs, and laboratory findings.

[74 FR 63601, Dec. 4, 2009]

§ 220.111 [Reserved]

§ 220.112 Conclusions by physicians concerning the claimant’s disability.

(a) General. Under the statute, the Board is responsible for making the decision about whether a claimant meets the statutory definition of disability. A claimant can only be found disabled if he or she is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. (See §220.20). A claimant’s impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. (See §220.27). The decision as to whether a claimant is disabled may involve more than medical considerations and the Board may have to consider such factors as age, education and past work experience. Such vocational factors are not within the expertise of medical sources.

(b) Medical opinions that are conclusive. A medical opinion by a treating source will be conclusive as to the medical issues of the nature and severity of a claimant’s impairment(s) where the Board finds that (1) it is fully supported by medically acceptable clinical and laboratory diagnostic techniques and (2) it is not inconsistent with the other substantial medical evidence of record. A medical opinion that is not fully supported will not be conclusive.

(c) Medical opinions that are not fully supported. If an opinion by a treating source(s) is not fully supported, the Board will make every reasonable effort (i.e., an initial request and, after 20 days, one follow-up request) to obtain from the claimant’s treating source(s) the relevant evidence that supports the medical opinion(s) before the Board makes a determination as to whether a claimant is disabled.

Example: In a case involving an organic mental disorder caused by trauma to the head, a consultative physician, upon interview with the claimant, found only mild disorientation as to time and place. The claimant’s treating physician reports that the claimant, as the result of his impairment, has severe disorientation as to time and place. The treating physician supplies office notes which follow the course of the claimant’s illness from the date of injury to the present. These notes indicate that the claimant’s condition is such that he has some “good days” on which he appears to be unimpaired, but generally support the treating physician’s opinion that the claimant is severely impaired. In this case the treating physician’s opinion will be given some weight over that of the consultative physician.

(d) Inconsistent medical opinions. Where the Board finds that the opinion of a treating source regarding medical issues is inconsistent with the evidence of record, including opinions of other sources that are supported by medically acceptable clinical and laboratory diagnostic techniques, the Board must resolve the inconsistency. If necessary to resolve the inconsistency, the
Board will secure additional independent evidence and/or further interpretation or explanation from the treating source(s) and/or the consultative physician or psychologist. The Board’s determination will be based on all the evidence in the case record, including the opinions of the medical sources. In resolving an inconsistency, the Board will give some extra weight to the treating source’s supported opinion(s) which interprets the medical findings about the nature and severity of the impairment(s).

Example: In a case involving arthritis of the shoulder, where the X-rays confirm bone destruction, the examinations indicate minimal swelling and inflammation, but the treating source supplies evidence of greater restriction in the range of motion than found by the consultative physician, the Board will ask the treating source for further interpretation of the range of motion studies. If the treating source supplies a reasonable explanation, e.g., that the individual’s condition is subject to periods of aggravation, the treating source’s explanation will be given some extra weight over that of the consultative physician.

(e) Medical opinions that will not be considered conclusive nor given extra weight. The Board will not consider as conclusive nor give extra weight to medical opinions which are not in accord with the statutory or regulatory standards for establishing disability. Thus, opinions that the individual’s impairments are medically disabling where the medical findings which are the basis for that conclusion would not support an impairment so severe as to preclude any substantial gainful activity will not be conclusive nor given extra weight. Likewise, an opinion as to the individual’s residual functional capacity which is not in accord with regulatory requirements set forth in §§220.120 and 220.121 will not be conclusive nor given extra weight.

Example 1: A medical opinion states that a claimant is disabled based on blindness, but findings show functional visual acuity in the better eye, after best correction, of 20/100. That medical opinion would not be conclusive or given extra weight.

Example 2: A medical opinion that the individual is limited to light work when the evidence shows that he or she can lift a maximum of 50 pounds and lift 25 pounds frequently will not be considered as conclusive nor given extra weight. This is because the individual’s exertional capacity exceeds the criteria set forth in the regulations for light work.

§ 220.144 Evaluation of symptoms, including pain.

(a) General. In determining whether the claimant is disabled, the Board considers all of the claimant’s symptoms, including pain, and the extent to which the claimant’s symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence. By objective medical evidence, the Board means medical signs and laboratory findings as defined in §§220.113(b) and (c) of this part. By other evidence, the Board means the kinds of evidence described in §§220.45 and 220.46 of this part. These include statements or reports from the