

Railroad Retirement Board

§ 220.36

the process by which the Board evaluates disability for any regular employment. This process applies to employees, widow(er)s, or children who apply for annuities based on disability for any regular employment. This process does not apply to surviving divorced spouses or remarried widow(er)s who apply for annuities based on disability.

§ 220.27 What is needed to show an impairment.

A physical or mental impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only by the claimant's statement of symptoms. (See § 220.113 for further information about what is meant by symptoms, signs, and laboratory findings.) (See also § 220.112 for the effect of a medical opinion about whether or not a claimant is disabled.)

§ 220.28 How long the impairment must last.

Unless the claimant's impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. This is known as the duration requirement.

§ 220.29 Work that is considered substantial gainful activity.

Work is considered to be substantial gainful activity if it—

- (a) Involves doing significant and productive physical or mental duties; and
- (b) Is done or is intended to be done for pay or profit. (See § 220.141 for a detailed explanation of what is substantial gainful activity.)

§ 220.30 Special period required for eligibility of widow(er)s.

In order to be found disabled for any regular employment, a widow(er) must have a permanent physical or mental impairment which prevented work in any regular employment since before the end of a specific period as defined in part 216 of this chapter.

Subpart E—Disability Determinations Governed by the Regulations of the Social Security Administration

§ 220.35 Introduction.

In addition to its authority to decide whether a claimant is disabled under the Railroad Retirement Act, the Board has authority in certain instances to decide whether a claimant is disabled as that term is defined in the Social Security Act. In making these decisions the Board must apply the regulations of the Social Security Administration in the same manner as does the Secretary of Health and Human Services in making disability decisions under the Social Security Act. Regulations of the Social Security Administration concerning disability are found at part 404, subpart P of this title.

§ 220.36 Period of disability.

(a) *General.* In order to receive an annuity based upon a disability, an employee must be found disabled under the Railroad Retirement Act. If an employee is found disabled under the Railroad Retirement Act, the Board will determine whether he is disabled under the Social Security Act to qualify for a period of disability as defined in that Act.

(b) *Period of disability—(1) Definition and effect.* A period of disability is a continuous period of time during which an employee is disabled as that term is defined in § 404.1505 of this title. A period of disability established by the Board—

- (i) Preserves the disabled employee's earnings record as it is when the period begins;
- (ii) Protects the insured status required for entitlement to social security overall minimum;
- (iii) May cause an increase in the rate of an employee, spouse, or survivor annuity; or
- (iv) May permit a disabled employee to receive Medicare benefits in addition to an annuity under the Railroad Retirement Act.

(2) *Effect on benefits.* The establishment of a period of disability for the employee will never cause a denial or