

§ 220.180

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Board will find that his or her disability has ended. The month such annuitant's disability ends will be the first month in which he or she failed to follow the prescribed treatment.

[56 FR 12980, Mar. 28, 1991, as amended at 74 FR 63602, Dec. 4, 2009]

§ 220.180 Determining continuation or cessation of disability.

Evaluation steps. To assure that disability reviews are carried out in a uniform manner, that decisions of continuing disability can be made in the most expeditious and administratively efficient way, and that any decisions to stop a disability annuity are made objectively, neutrally and are fully documented, the Board will follow specific steps in reviewing the question of whether an annuitant's disability continues. The Board's review may cease and the disability may be continued at any point if the Board determines that there is sufficient evidence to find that the annuitant is still unable to engage in substantial gainful activity. The steps are—

(a) Is the annuitant engaging in substantial gainful activity? If he or she is (and any applicable trial work period has been completed), the Board will find disability to have ended (see § 220.179(a)(5));

(b) If the annuitant is not engaging in substantial gainful activity, does he or she have an impairment or combination of impairments which is medically disabling? If the annuitant's impairment(s) is medically disabling, his or her disability will be found to continue;

(c) If the annuitant's impairment(s) is not medically disabling, has there been medical improvement as defined in § 220.177(a)? If there has been medical improvement as shown by a decrease in medical severity, see step (d). If there has been no decrease in medical severity, then there has been no medical improvement; (See step (e));

(d) If there has been medical improvement, the Board must determine whether it is related to the annuitant's ability to do work in accordance with paragraphs (a) through (d) of § 220.177, (i.e., whether or not there has been an increase in the residual functional capacity based on the impairment(s) that

was present at the time of the most recent favorable medical determination). If medical improvement is not related to the annuitant's ability to do work, see step (e). If medical improvement is related to the annuitant's ability to do work, see step (f);

(e) If the Board found at step (c) that there has been no medical improvement or if it found at step (d) that the medical improvement is not related to the annuitant's ability to work, the Board considers whether any of the exceptions in § 220.178 apply. If none of them apply, disability will be found to continue. If one of the first group of exceptions to medical improvement applies, see step (f). If an exception from the second group of exceptions to medical improvement applies, disability will be found to have ended. The second group of exceptions to medical improvement may be considered at any point in this process;

(f) If medical improvement is shown to be related to the annuitant's ability to do work or if one of the first group of exceptions to medical improvement applies, the Board will determine whether all of the annuitant's current impairments in combination are severe. This determination will consider all current impairments and the impact of the combination of those impairments on the ability to function. If the residual functional capacity assessment in step (d) above shows significant limitation of ability to do basic work activities, see step (g). When the evidence shows that all current impairments in combination do not significantly limit physical or mental abilities to do basic work activities, these impairments will not be considered severe in nature, and the annuitant will no longer be considered to be disabled;

(g) If the annuitant's impairment(s) is severe, the Board will assess his or her current ability to engage in substantial gainful activity. That is, the Board will assess the annuitant's residual functional capacity based on all of his or her current impairments and consider whether he or she can still do work that was done in the past. If he or she can do such work, disability will be found to have ended; and

(h) If the annuitant is not able to do work he or she has done in the past,

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the Board will consider one final step. Given the residual functional capacity assessment and considering the annuitant's age, education and past work experience, can he or she do other work? If the annuitant can do other work, disability will be found to have ended. If he or she cannot do other work, disability will be found to continue.

[56 FR 12980, Mar. 28, 1991, as amended at 74 FR 63603, Dec. 4, 2009]

§ 220.181 The month in which the Board will find that the annuitant is no longer disabled.

If the evidence shows that the annuitant is no longer disabled, the Board will find that his or her disability ended in the earliest of the following months—

(a) The month the Board mails the annuitant a notice saying that the Board finds that he or she is no longer disabled based on evidence showing:

(1) There has been medical improvement in the annuitant's impairments related to the ability to work and the annuitant has the capacity to engage in substantial gainful work under the rules set out in §§ 220.177 and 220.178; or

(2) There has been no medical improvement in the annuitant's impairments related to the ability to work but the annuitant has the capacity to engage in substantial gainful work and one of the exceptions to medical improvement set out in § 220.179(a)(1), (2), (3) or (4) applies.

(b) The month in which the annuitant demonstrated his or her ability to engage in substantial gainful activity (following completion of a trial work period);

(c) The month in which the annuitant actually does substantial gainful activity where such annuitant is not entitled to a trial work period;

(d) The month in which the annuitant returns to full-time work, with no significant medical restrictions and acknowledges that medical improvement has occurred, and the Board expected the annuitant's impairment(s) to improve;

(e) The first month in which the annuitant failed without good cause to do what the Board asked, when the rule

set out in paragraph (b)(2) of § 220.179 applies;

(f) The first month in which the question of continuing disability arose and the Board could not locate the annuitant after a suitable investigation (see § 220.179(b)(3));

(g) The first month in which the annuitant failed without good cause to follow prescribed treatment, when the rule set out in paragraph (b)(4) of § 220.179 applies; or

(h) The first month the annuitant was told by his or her physician that he or she could return to work provided there is no substantial conflict between the physician's and the annuitant's statements regarding that annuitant's awareness of his or her capacity for work and the earlier date is supported by the medical evidence.

(i) The month the evidence shows that the annuitant is no longer disabled under the rules set out in §§ 220.177 through 220.180, and he or she was disabled only for a specified period of time in the past as discussed in § 220.21 or § 220.105;

[56 FR 12980, Mar. 28, 1991, as amended at 74 FR 63603, Dec. 4, 2009]

§ 220.182 Before a disability annuity is stopped.

Before the Board stops a disability annuity, it will give the annuitant a chance to explain why it should not do so.

§ 220.183 Notice that the annuitant is not disabled.

(a) *General.* If the Board determines that the annuitant does not meet the disability requirements of the law, the disability annuity will generally stop. Except in the circumstance described in paragraph (d) of this section, the Board will give the annuitant advance written notice when the Board has determined that he or she is not now disabled.

(b) *What the advance written notice will tell the annuitant.* The advance written notice will provide—

(1) A summary of the information the Board has and an explanation of why the Board believes the annuitant is no longer disabled. If it is because of medical reasons, the notice will tell the annuitant what the medical information