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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(s) 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 accuity 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.

[56 FR 12980, Mar. 28, 1991, as amended at 68 FR 60291, Oct. 22, 2003; 74 FR 63601, Dec. 4, 2009]

§ 220.113 Symptoms, signs, and laboratory findings.

Medical findings consist of symptoms, signs, and laboratory findings:

(a) *Symptoms* are the claimant's own description of his or her physical or mental impairment(s). The claimant's statements alone are not enough to establish that there is a physical or mental impairment(s).

(b) *Signs* are anatomical, physiological, or psychological abnormalities which can be observed, apart from the claimant's own statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific abnormalities of behavior, affect, thought, memory, orientation and contact with reality. They must also be shown by observable facts that can be medically described and evaluated.

(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.

(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

claimant, the claimant's treating or examining physician or psychologist, and others about the claimant's medical history, diagnosis, prescribed treatment, daily activities, efforts to work, and any other evidence showing how the claimant's impairment(s) and any related symptoms affect the claimant's ability to work. The Board will consider all of the claimant's statements about his or her symptoms, such as pain, and any description by the claimant, the claimant's physician, or psychologist, or other persons about how the symptoms affect the claimant's activities of daily living and ability to work. However, statements alone about the claimant's pain or other symptoms will not establish that the claimant is disabled; there must be medical signs and laboratory findings which show that the claimant has a medical impairment(s) which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all of the other evidence (including statements about the intensity and persistence of the claimant's pain or other symptoms which may reasonably be accepted as consistent with the medical signs and laboratory findings), would lead to a conclusion that the claimant is disabled. In evaluating the intensity and persistence of the claimant's symptoms, including pain, the Board will consider all of the available evidence, including the claimant's medical history, the medical signs and laboratory findings and statements about how the claimant's symptoms affect the claimant. (Section 220.112(b) of this part explains how the Board considers opinions of the claimant's treating source and other medical opinions on the existence and severity of the claimant's symptoms, such as pain.) The Board will then determine the extent to which the claimant's alleged functional limitations and restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how the claimant's symptoms affect the claimant's ability to work.

(b) *Need for medically determinable impairment that could reasonably be expected to produce symptoms, such as pain.* The claimant's symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect the claimant's ability to do basic work activities unless medical signs or laboratory findings show that a medically determinable impairment(s) is present. Medical signs and laboratory findings, established by medically acceptable clinical or laboratory diagnostic techniques, must show the existence of a medical impairment(s) which results from anatomical, physiological, or psychological abnormalities and which could reasonably be expected to produce the pain or other symptoms alleged. The finding that the claimant's impairment(s) could reasonably be expected to produce the claimant's pain or other symptoms does not involve a determination as to the intensity, persistence, or functionally limiting effects of the claimant's symptoms. The Board will develop evidence regarding the possibility of a medically determinable mental impairment when the Board has information to suggest that such an impairment exists, and the claimant alleges pain or other symptoms but the medical signs and laboratory findings do not substantiate any physical impairment(s) capable of producing the pain or other symptoms.

(c) *Evaluating the intensity and persistence of symptoms, such as pain, and determining the extent to which the claimant's symptoms limit his or her capacity for work*—(1) *General.* When the medical signs or laboratory findings show that the claimant has a medically determinable impairment(s) that could reasonably be expected to produce the claimant's symptoms, such as pain, the Board must then evaluate the intensity and persistence of the claimant's symptoms so that it can determine how the claimant's symptoms limit the claimant's capacity for work. In evaluating the intensity and persistence of the claimant's symptoms, the Board considers all of the available evidence, including the claimant's medical history, the medical signs and laboratory findings, and statements from the claimant, the claimant's treating or examining physician or psychologist, or other persons about how the claimant's symptoms affect the claimant. The

Board also considers the medical opinions of the claimant's treating source and other medical opinions as explained in § 220.112 of this part. Paragraphs (c)(2) through (c)(4) of this section explain further how the Board evaluates the intensity and persistence of the claimant's symptoms and how it determines the extent to which the claimant's symptoms limit the claimant's capacity for work, when the medical signs or laboratory findings show that the claimant has a medically determinable impairment(s) that could reasonably be expected to produce the claimant's symptoms, such as pain.

(2) *Consideration of objective medical evidence.* Objective medical evidence is evidence obtained from the application of medically acceptable clinical and laboratory diagnostic techniques, such as evidence of reduced joint motion, muscle spasm, sensory deficit or motor disruption. Objective medical evidence of this type is a useful indicator to assist the Board in making reasonable conclusions about the intensity and persistence of the claimant's symptoms and the effect those symptoms, such as pain, may have on the claimant's ability to work. The Board must always attempt to obtain objective medical evidence and, when it is obtained, the Board will consider it in reaching a conclusion as to whether the claimant is disabled. However, the Board will not reject the claimant's statements about the intensity and persistence of the claimant's pain or other symptoms or about the effect the claimant's symptoms have on the claimant's ability to work solely because the available objective medical evidence does not substantiate the claimant's statements.

(3) *Consideration of other evidence.* Since symptoms sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, the Board will carefully consider any other information the claimant may submit about his or her symptoms. The information that the claimant, the claimant's treating or examining physician or psychologist, or other persons provide about the claimant's pain or other symptoms (*e.g.*, what may precipitate or aggravate the claimant's symptoms, what medications, treatments or other methods he or she uses to alleviate them, and how the symptoms may affect the claimant's pattern of daily living) is also an important indicator of the intensity and persistence of the claimant's symptoms. Because symptoms, such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which the claimant, his or her treating or examining physician or psychologist, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account as explained in paragraph (c)(4) of this section in reaching a conclusion as to whether the claimant is disabled. The Board will consider all of the evidence presented, including information about the claimant's prior work record, the claimant's statements about his or her symptoms, evidence submitted by the claimant's treating, examining or consulting physician or psychologist, and observations by Board employees and other persons. Section 220.112 of this part explains in detail how the Board considers and weighs treating source and other medical opinions about the nature and severity of the claimant's impairment(s) and any related symptoms, such as pain. Factors relevant to the claimant's symptoms, such as pain, which the Board will consider include:

(i) The claimant's daily activities;

(ii) The location, duration, frequency, and intensity of the claimant's pain or other symptoms;

(iii) Precipitating and aggravating factors;

(iv) The type, dosage, effectiveness, and side effects of any medication the claimant takes or has taken to alleviate the claimant's pain or other symptoms;

(v) Treatment, other than medication, the claimant receives or has received for relief of pain or other symptoms;

(vi) Any measures the claimant uses or has used to relieve pain or other symptoms (*e.g.*, lying flat on the claimant's back, standing for 15 to 20 minutes every hour, sleeping on a board, etc.); and

(vii) Other factors concerning the claimant's functional limitations and restrictions due to pain or other symptoms.

(4) *How the Board determines the extent to which symptoms, such as pain, affect the claimant's capacity to perform basic work activities.* In determining the extent to which the claimant's symptoms, such as pain, affect the claimant's capacity to perform basic work activities, the Board considers all of the available evidence described in paragraphs (c)(1) through (c)(3) of this section. The Board will consider the claimant's statements about the intensity, persistence, and limiting effects of the claimant's symptoms, and the Board will evaluate the claimant's statements in relation to the objective medical evidence and other evidence, in reaching a conclusion as to whether the claimant is disabled. The Board will consider whether there are any inconsistencies in the evidence and the extent to which there are any conflicts between the claimant's statements and the rest of the evidence, including the claimant's medical history, the medical signs and laboratory findings, and statements by the claimant's treating or examining physician or psychologist or other persons about how the claimant's symptoms affect the claimant. The claimant's symptoms, including pain, will be determined to diminish the claimant's capacity for basic work activities to the extent that the claimant's alleged functional limitations and restrictions due to symptoms, such as pain, can reasonably be accepted as consistent with the objective medical evidence and other evidence.

(d) *Consideration of symptoms in the disability determination process.* The Board follows a set order of steps to determine whether the claimant is disabled. If the claimant is not doing substantial gainful activity, the Board considers the claimant's symptoms, such as pain, to evaluate whether the claimant has a severe physical or mental impairment(s), and at each of the remaining steps in the process. Section 220.100 explains this process in detail. The Board also considers the claimant's symptoms, such as pain, at the appropriate steps in the Board's review when the Board considers whether the claimant's disability continues. Subpart O of this part explains the procedure the Board follows in reviewing whether the claimant's disability continues.

(1) *Need to establish a severe medically determinable impairment(s).* The claimant's symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, are considered in making a determination as to whether the claimant's impairment or combination of impairment(s) is severe. (*See* § 220.100(b)(2) of this part).

(2) *Decision of whether impairment(s) is medically disabling.* The Board will not substitute the claimant's allegations of pain or other symptoms for a missing or deficient sign or laboratory finding to raise the severity of the claimant's impairment(s) to that of being medically disabling. If the symptoms, signs, and laboratory findings of the claimant's impairment(s) are found by the Board to be so severe as to prevent any substantial gainful activity, the Board will find the claimant disabled. If it does not, the Board will consider the impact of the claimant's symptoms on the claimant's residual functional capacity. (*See* paragraph (d)(3) of this section.)

(3) *Impact of symptoms (including pain) on residual functional capacity.* If the claimant has a medically determinable severe physical or mental impairment(s), but the claimant's impairment(s) is not medically disabling, the Board will consider the impact of the claimant's impairment(s) and any related symptoms, including pain, on the claimant's residual functional capacity. (*See* § 220.120 of this part.)

[68 FR 60291, Oct. 22, 2003, as amended at 74 FR 63601, Dec. 4, 2009]

§ 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