

TABLE 1.—AMOUNTS INDICATING SUBSTANTIAL GAINFUL ACTIVITY PERFORMED—Continued

For months:	Monthly earnings averaged more than:
In calendar year 1979	280
In calendar years 1980–1989 ...	300
January 1990–June 1999	500
July 1999–December 2000	700
In Calendar year 2001	740

(3) *Earnings that will ordinarily show that the claimant has not engaged in substantial gainful activity.* Beginning January 1, 2001, if the claimant's earnings are equal to or less than the amount(s) determined under paragraph (b)(2)(ii) of this section for the year(s) in which the claimant works, the Board will generally consider that the earnings from the claimant's work as an employee will show the claimant has not engaged in substantial gainful activity. Before January 1, 2001, if the claimant's earnings were less than the amount(s) in Table 2 of this section for the year(s) in which the claimant worked, the Board will generally consider that the earnings from the claimant's work as an employee will show that the claimant has not engaged in substantial gainful activity.

TABLE 2.—AMOUNTS INDICATING SUBSTANTIAL GAINFUL ACTIVITY NOT PERFORMED

For months:	Monthly earnings averaged less than:
In calendar years before 1976	\$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989 ...	190
In calendar years 1990–2000 ...	300

(4) *Before January 1, 2002, if the claimant worked in a sheltered workshop.* Before January 1, 2002, if the claimant worked in a sheltered workshop or a comparable facility especially set up for severely impaired persons, the Board will ordinarily consider that the claimant's earnings from this work show that the claimant has engaged in substantial gainful activity if the claimant's earnings averaged more than the amounts in Table 1 of this section. Average monthly earnings from a sheltered workshop or a comparable facility that are equal to or less than those amounts indicated in paragraph (b)(2) of this section will

ordinarily show that the claimant has not engaged in substantial gainful activity without the need to consider other information, as described in paragraph (b)(6) of this section, regardless of whether they are more or less than those indicated in paragraph (b)(3) of this section. When the claimant's earnings from a sheltered workshop or comparable facility are equal to or less than those amounts indicated in paragraph (b)(2), the Board will consider the provisions of paragraph (b)(6) of this section only if there is evidence showing that the claimant may have engaged in substantial gainful activity.

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(6) *Earnings that are not high enough to ordinarily show that the claimant engaged in substantial gainful activity.*

(i) Before January 1, 2002, if the claimant's average monthly earnings were between the amounts shown in paragraphs (b)(2) and (3) of this section, the Board will generally consider other information in addition to the claimant's earnings (see paragraph (b)(6)(iii) of this section). This rule generally applies to employees who did not work in a sheltered workshop or a comparable facility, although the Board may apply it to some people who work in sheltered workshops or comparable facilities (see paragraph (b)(4) of this section).

(ii) Beginning January 1, 2002, if the claimant's average monthly earnings are equal to or less than the amounts determined under paragraph (b)(2) of this section, the Board will generally not consider other information in addition to the claimant's earnings unless there is evidence indicating that the claimant may be engaging in substantial gainful activity or that the claimant is in a position to defer or suppress his or her earnings.

(iii) Examples of other information the Board may consider include, whether—

(A) The claimant's work is comparable to that of unimpaired people in the claimant's community who are doing the same or similar occupations as their means of livelihood, taking into account the time, energy, skill, and responsibility involved in the work, and

(B) The claimant's work, although significantly less than that done by unimpaired people, is clearly worth the amounts shown in paragraph (b)(2) of this section, according to pay scales in the claimant's community.

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

3. Section 220.170 is amended by revising paragraph (b) to read as follows:

§ 220.170 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 in employment or self-employment for pay or profit, or is the kind normally done for pay or profit. We generally do 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.

(1) *If the claimant is an employee.* The Board will consider the claimant's work as an employee to be services if:

(i) *Before January 1, 2002,* the claimant's earnings in a month were more than the amount(s) indicated in Table 1 of this section for the year(s) in which the claimant worked.

(ii) *Beginning January 1, 2002,* the claimant's earnings in a month are more than an amount determined for each calendar year to be the larger of:

(A) Such amount for the previous year, or

(B) The amount established by the Social Security Administration for such year as constituting the amount of monthly earnings used to determine whether a person has performed services for counting trial work period months.

(2) *If the claimant is self-employed.* The Board will consider the claimant's activities as a self-employed person to be services if:

(i) *Before January 1, 2002,* the claimant's net earnings in a month were more than the amount(s) indicated in Table 2 of this section for the year(s) in which the claimant worked, or the hours the claimant worked in the business in a month are more than the number of hours per month indicated in Table 2 for the years in which the claimant worked.

(ii) *Beginning January 1, 2002,* the claimant worked more than 40 hours a month in the business, or the claimant's net earnings in a month are more than an amount determined for each calendar year to be the larger of:

(A) Such amount for the previous year, or

(B) The amount established by the Social Security Administration for such year as constituting the amount of monthly earnings used to determine