

2010, it denied modification of the May 13, 2010 decision terminating his wage-loss compensation benefits. On September 17, 2010 OWCP issued a decision denying appellant's request for a merit review of the May 13, 2010 decision.

The Board notes that a physician selected as an impartial medical specialist must be wholly free to make a completely independent evaluation and judgment.¹ OWCP's procedures provide that selection of the referee physician will be made by a strict rotational system utilizing the services of all available and qualified Board-certified specialists.² A physician who is non Board-certified may be used if he or she has special qualifications which are documented in the case record. In this case, a review of Dr. Ortiz's report does not indicate whether he is Board-certified. It only notes that he is an orthopedic surgeon. Moreover the record is devoid of any evidence showing how OWCP selected Dr. Ortiz. Based on the evidence of record, the Board is unable to determine whether he holds the requisite Board-certification to act as an impartial medical specialist. Moreover, there is no evidence of record that he possesses any special qualifications in the field of orthopedic surgery to serve in such capacity. The Board concludes, therefore, that OWCP failed to follow its procedures in the selection of the impartial medical specialist and the referral to Dr. Ortiz was improper. For this reason, OWCP improperly terminated appellant's entitlement to wage-loss benefits.³

¹ See *T.P.*, 58 ECAB 524 (2007); *Brenda C. McQuiston*, 54 ECAB 816 (2003); *Vernon E. Gaskins*, 39 ECAB 746 (1988).

² Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Examinations*, Chapter 3.500.4(b)(1) (May 2003).

³ See *Louis L. Baratta*, Docket No. 01-1610 (issued March 13, 2002).

IT IS HEREBY ORDERED THAT the September 17, 2010 nonmerit decision and the August 17, 2010 merit decision of the Office of Workers' Compensation Programs are reversed.

Issued: August 26, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board