

<sup>2</sup> Docket No. 10-1559 (issued April 21, 2011).

remanded the case, finding that OWCP had not submitted new documentation establishing that the previously selected physician was Board-certified in the subspecialty of pain medicine.<sup>3</sup>

On remand, OWCP selected Dr. Daniel Brzusek, an osteopath who is Board-certified in physical medicine and rehabilitation. Dr. Brzusek submitted a September 11, 2012 report, and by decision dated November 29, 2012, OWCP found the report was entitled to special weight and resolved the conflict in the medical evidence. OWCP did not make a finding that Dr. Brzusek was Board-certified in the subspecialty of pain medicine, did not present any evidence on the issue, nor is there evidence from ABMS that Dr. Brzusek was Board-certified in the subspecialty of pain medicine.

The remands from the Board have provided straightforward instructions to OWCP for the selection of a referee physician that is Board-certified in the subspecialty of pain medicine. Unless OWCP can provide specific documentation that Dr. Brzusek is Board-certified in the subspecialty of pain medicine, the case requires selection of a new referee physician. The Board notes that, under the current procedures for the selection of a referee physician, when there are exceptional circumstances such as when an “esoteric specialty is required,” OWCP may schedule a referee outside of the Medical Management Application (MMA) by consulting an appropriate directory of Board-certified medical specialists.<sup>4</sup> If this procedure would facilitate the proper selection of a referee physician in this case and prevent additional delay in resolving the medical issue presented, OWCP may employ such a procedure in this case.

The case will again be remanded to OWCP for proper selection of a referee physician that is Board-certified in the specific subspecialty of pain medicine, with appropriate documentation of such Board-certification in the record. After such further development as OWCP deems necessary, it should issue an appropriate decision.

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<sup>3</sup> Docket No. 12-231 (issued July 12, 2012).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *OWCP Directed Medical Examinations*, Chapter 3.500.5 (December 2012).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 29, 2012 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: May 13, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board