

A physician selected by OWCP to serve as an impartial medical specialist should be one wholly free to make a completely independent evaluation and judgment. In order to achieve this, OWCP has developed specific procedures for the selection of the impartial medical specialist designed to provide adequate safeguards against any possible appearance that the selected physician's opinion was biased or prejudiced. The procedures contemplate that the impartial medical specialist will be selected on a strict rotating basis in order to negate any appearance that preferential treatment exists between a particular physician and OWCP.²

OWCP has an obligation to verify that it selected Dr. Cohen in a fair and unbiased manner. It maintains records for this very purpose.³ The current record includes an undated MEO23 iFECs report which states that appellant's referee appointment was scheduled with Dr. Cohen. The record also contains a screen shot that includes a list of doctors, not including that of Dr. Cohen. The record, however, does not include any reference as to the significance of this document that would substantiate the referee selection of Dr. Cohen. Thus, the Board cannot ascertain whether Dr. Cohen was properly selected under OWCP selection procedure.

The Board has placed great importance on the appearance as well as the fact of impartiality, and only if the selection procedures which were designed to achieve this result are scrupulously followed, may the selected physician carry the special weight accorded to an impartial specialist. OWCP has not met its affirmative obligation to establish that it properly followed its selection procedures.⁴

The Board will remand the case to OWCP for selection of another impartial medical specialist. After such further development as necessary, OWCP shall issue an appropriate decision.

² *Raymond J. Brown*, 52 ECAB 192 (2001).

³ *M.A.*, Docket No. 07-1344 (issued February 19, 2008).

⁴ *H.W.*, Docket No. 10-404 (issued September 28, 2011).

IT IS HEREBY ORDERED THAT the June 17, 2010 decision of the Office of Workers' Compensation Programs be set aside and the case remanded for proceedings consistent with this order of the Board.

Issued: October 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