

possible appearance that the selected physician's opinion was biased or prejudiced. The procedures contemplate that the referee physician 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. Simon in a fair and unbiased manner. It maintains records for this very purpose.³ The current record includes a December 11, 2006 ME023 IF ECS report which states that appellant's referee appointment was scheduled with Dr. Simon. The record does not include any IF ECS screen shots substantiating the referee selection of Dr. Simon, or any other probative evidence regarding the selection.

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 referee specialist.⁴ OWCP has not met its affirmative obligation to establish that it properly followed its selection procedures.

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 *See L.W.*, 59 ECAB 471 (2008).

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 20, 2010 is set aside and the case remanded for further proceedings consistent with this opinion.

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