



employment in her date-of-injury distribution clerk position. Dr. Glenn noted lifting restrictions due to idiopathic, nonoccupational lumbar degenerative disc disease.

By notice dated April 20, 2010, OWCP proposed to terminate appellant's wage-loss and medical compensation benefits, based on Dr. Glenn's opinion. It finalized the notice on May 27, 2010. Following a telephonic hearing, OWCP affirmed the May 27, 2010 termination by decision dated and finalized December 13, 2010. Its hearing representative noted counsel's contention that Dr. Glenn was not selected using the PDS system. The hearing representative found that as counsel did not provide evidence establishing OWCP error or physician bias, Dr. Glenn's "selection as the impartial medical specialist is deemed valid."

The Board finds that this case is not in posture for decision as OWCP has not established that Dr. Glenn was properly selected as the impartial medical specialist in this case.

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 impartial medical specialists designed to provide adequate safeguards against any possible appearance that the selected physician's opinion was biased or prejudiced. The procedures contemplate that impartial medical specialists will be selected on a strict rotating basis in order to negate any appearance that preferential treatment exists between a particular physician and OWCP.<sup>1</sup>

OWCP has an obligation to verify that it selected Dr. Glenn in a fair and unbiased manner. It maintains records for this very purpose.<sup>2</sup> The current record includes a November 5, 2009 RME referral form indicating that OWCP selected Dr. Glenn as the IME by use of the "PDS" system. The record also includes a November 13, 2009 MEO23 IFECS report which states that OWCP scheduled appellant's referee appointment with Dr. Glenn. However, the record does not include any IFECS screen shots substantiating the referee selection process. The Board cannot ascertain whether Dr. Glenn was properly selected by the PDS.

The Board finds that OWCP has not adequately explained how the rotational system selected Dr. Glenn. 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.

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.

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<sup>1</sup> *Raymond J. Brown*, 52 ECAB 192 (2001).

<sup>2</sup> *M.A.*, Docket No. 07-1344 (issued February 19, 2008).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 13, 2010 be set aside and the case remanded for further proceedings consistent with this opinion.

Issued: January 12, 2012  
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