



The Board has held that a physician selected as an impartial medical specialist must be wholly free to make a completely independent evaluation and judgment.<sup>1</sup> 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.<sup>2</sup> A physician who is not 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 the record does not establish that he is Board certified; only that he is a neurologist.<sup>3</sup> 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. OWCP failed to follow its procedures in not selecting a Board-certified impartial medical specialist or in failing to explain why such selection was not possible. Thus, the referral to Dr. Jenike was improper. For this reason the Board finds that OWCP improperly terminated appellant's entitlement to compensation benefits.<sup>4</sup>

**IT IS HEREBY ORDERED THAT** the August 29, 2011 merit decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 25, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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

<sup>2</sup> Federal (FECA) Procedure Manual, Part 3 - Medical, *Medical Examinations*, Chapter 3.500.4(b)(1) (July 2011).

<sup>3</sup> In the MEO 23, Appointment Schedule Notification, OWCP indicated the specialty for Dr. Jenike was that of neurology. However, at the bottom of the notice of proposed termination, OWCP indicated that it enclosed a report from Dr. Jenike, referring to him as Board certified.

<sup>4</sup> See *Louis L. Baratta*, Docket No. 01-1610 (issued March 13, 2002).