

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

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.³

OWCP has an obligation to verify that it selected the impartial medical specialist in a fair and unbiased manner. It maintains records for this very purpose.⁴ The case file includes an undated ME023 iFECS report, which indicates that appellant's referee appointment was scheduled with Dr. Dinenberg. The record, however, contains no screenshots that substantiate the proper selection of Dr. Dinenberg. Thus, the Board cannot ascertain whether Dr. Dinenberg was properly selected under OWCP selection procedures.

The Board has placed great importance on the appearance as well as the fact of impartiality, and only if the selection procedures that 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.⁵

The Board will remand the case to OWCP for selection of another impartial medical specialist. After such further development as necessary, OWCP shall issue a *de novo* decision.⁶

³ *Raymond J. Brown*, 52 ECAB 192 (2001).

⁴ *M.A.*, Docket No. 07-1344 (issued February 19, 2008).

⁵ *H.W.*, Docket No. 10-404 (issued September 28, 2011).

⁶ Appellant has requested oral argument before the Board. Given the disposition of this appeal, however, oral argument is unnecessary. 20 C.F.R. § 501.5(a) (oral argument may be held in the discretion of the Board).

IT IS HEREBY ORDERED THAT the June 22 and March 10, 2011 decisions of the Office of Workers' Compensation Programs are set aside and the case remanded for proceedings consistent with this order of the Board.

Issued: May 9, 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