

On June 7, 2010 OWCP referred appellant to Dr. Michael Wujciak, a Board-certified orthopedic surgeon, for an impartial medical examination. The record contains a referral form dated June 2, 2010 and an MEO23 form dated June 7, 2010 indicating that OWCP scheduled the referee examination with Dr. Wujciak for June 30, 2010. Based on Dr. Wujciak's opinion, by decisions dated February 9 and August 26, 2011, OWCP denied appellant's claim for a schedule award.

On appeal appellant's attorney contends that Dr. Wujciak was not properly selected as the impartial medical examiner as there is no screen shot documenting his selection. 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.²

OWCP has an obligation to verify that it selected Dr. Wujciak in a fair and unbiased manner. It maintains records for this very purpose.³ The current record contains a June 2, 2010 REM referral form and a June 7, 2010 MEO23 report which states that OWCP scheduled appellant's referee appointment with Dr. Wujciak. However, the record does not include any screen shots substantiating the referee selection process. The Board cannot ascertain whether OWCP properly selected Dr. Wujciak as the impartial medical examiner.

The Board finds that OWCP has not adequately explained how the rotational system selected Dr. Wujciak. 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, it shall issue an appropriate decision.

² See *M.B.*, Docket No. 11-1003 (issued January 12, 2012); *Raymond J. Brown*, 52 ECAB 192 (2001).

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

IT IS HEREBY ORDERED THAT the decision dated August 26, 2011 is set aside and the case is remanded for further proceedings consistent with this order of the Board.

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