

I-2-5-36. Selecting a Medical Expert

Last Update: 9/28/05 (Transmittal I-2-68)

A. General

All ALJ contacts with an ME about a case must be in writing or at a hearing, and all correspondence with the ME must be made part of the record.

When an ALJ determines that ME testimony is needed, the ALJ will inform the claimant and the representative by placing a statement to that effect in the "REMARKS" section of the Notice of Hearing. (See I-2-3-15, Notice of Hearing.)

The ALJ or designee will, before the hearing, furnish the ME with copies of the pertinent medical reports and written lay evidence. If additional medical evidence is received at the hearing, the ALJ will, if possible, provide it to the ME for review before the ME testifies. If this is not possible, the ALJ may proceed with testimony from the ME and then send the ME interrogatories post-hearing to ascertain what impact the new evidence may have on the testimony given in the hearing. If this procedure is followed, the ALJ must generally comply with the proffer requirements. See I-2-7-30, Proffer Procedures, through I-2-7-35, Entering Posthearing Evidence; I-2-5-91 Sample Letter to Representative Enclosing Copy of New Evidence; I-2-5-92 Sample Letter to Unrepresented Claimant Enclosing Copy of New Evidence. See also I-2-5-42.D.2. – Obtaining Medical Expert Opinion Through Interrogatories.

The ALJ or designee must select the ME whose expertise is most appropriate to the claimant's diagnosed impairment(s).

An ALJ may never permit an ME to perform an examination of a claimant.

B. HO Staff Recommends Use of ME

Before scheduling a hearing, the ALJ or designee must thoroughly review the case to determine what, if any, additional evidence is needed to decide the case. If a designee performs the review and believes that ME opinion is necessary, the designee will make that recommendation to the ALJ and will also recommend the medical specialty of the ME.

C. ALJ Determines that ME Opinion is Needed

If the ALJ determines (or agrees) that ME opinion is needed, the ALJ will decide:

- the medical specialty of the ME and
- the manner in which to receive the ME opinion (i.e., whether to receive the opinion in testimony at the hearing in person, by videoconference or telephone conference or in response to written interrogatories). (See I-2-5-30, Medical or Vocational Expert Opinion — General.)

D. Selection of ME from RO Roster

Each RO maintains a roster of MEs who have agreed to provide impartial expert opinion pursuant to a BPA with the Office of Hearings and Appeals (OHA). (See I-2-5-31, Blanket Purchase Agreements.) An ALJ must select an ME who is maintained on any RO's roster to the extent possible. The ALJ or designee must select an ME from the roster in rotation to the extent possible; i.e., when an ALJ selects an ME with a particular medical specialty from the roster to provide expert opinion in a case, that ME will go to the bottom of the roster and will not be called again by that ALJ or any other ALJ in the HO until all other MEs on the roster with that medical specialty are called. If an ME in the specialty needed by the ALJ is not available on the RO roster of the HO's region, then the ALJ should look to other RO rosters to obtain the services of an ME.

If an ALJ decides to use an ME from any RO roster, the HO staff will prepare a Contractor Invoice using WebBass. To access the Contractor Invoice, Form HA-590, in DGS, go to DGS, click on the "contractor's Invoice" tab.

E. Selection of ME Not on RO Roster

An ALJ may use an ME who does not have a BPA with OHA, if the ALJ requires a particular medical specialty not represented on any RO roster, or there are other extenuating circumstances which require the one-time purchase of such ME's services.

The same terms and conditions which apply to an ME providing services pursuant to a BPA also apply to an ME providing services without a BPA. Authorize payment to an ME without a BPA by completing Optional Form 347, Order of Supplies or Services. The OF-347 is available in fillable form on the SSA Electronic Forms System Form Filler program (E-forms) or via the General Services Administration (GSA) website.