



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

La Crosse County Department of Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 219835

PRELIMINARY RECITALS

Pursuant to petition filed September 3, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the La Crosse County Department of Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Tuesday, November 18, 2025, at 9:00 AM by telephone.

The issue for determination is whether the respondent committed an Intentional Program Violation (IPV).

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

Respondent:

██████████—DID NOT APPEAR
██████████
██████████

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of Jackson County who received FS benefits on and off between March 2022 and September 2025. He was a FoodShare assistance group of one person.

2. On December 6, 2024, the respondent called the agency and completed his FoodShare renewal over the phone. He confirmed that he was a FoodShare assistance group of one person and that he understood the penalties for violating FoodShare rules.
3. On April 30, 2025, the respondent called the agency and completed his FoodShare renewal over the phone. He again confirmed that he was a FoodShare assistance group of one person and that he understood the penalties for violating FoodShare rules.
4. On July 21, 2025, the respondent used his friend's FoodShare card to make a \$5.50 purchase at a local gas station.
5. The respondent's friend was arrested on July 28, 2025, and remained in jail until at least August 28, 2025.
6. On August 8, 2025, the respondent used his friend's FoodShare card at a local gas station to make a \$5.98 purchase.
7. On August 13, 2025, the respondent used his friend's FoodShare card at a local gas station to make a \$17.98 purchase.
8. On August 15, 2025, the respondent used his friend's FoodShare card at a local gas station to make a \$14.97 purchase.
9. On August 18, 2025, the respondent used his friend's FoodShare card at a local gas station to make a \$1.79 purchase.
10. On August 25, 2025, the agency deactivated the respondent's friend's FoodShare card.
11. On September 10, 2025, the agency investigator called the respondent regarding the usage of his friend's FoodShare card. The respondent admitted to using his friend's FS card, and told the investigator that he had placed \$200 on his friend's jail account in exchange for the usage of his FoodShare card.
12. On September 10, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that the respondent used the FoodShare card of a third party several times.
13. The respondent failed to appear for the scheduled November 18, 2025, Intentional Program Violation (IPV) hearing and did not provide any good cause for said failure to appear.

DISCUSSION

An intentional program violation of the FoodShare program occurs when a recipient intentionally does the following:

1. makes a false or misleading statement, or misrepresents, conceals or withholds facts;
or
2. commits any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any Wisconsin statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of FoodShare benefits or QUEST cards.

FoodShare Wisconsin Handbook, § 3.14.1; *see also* 7 C.F.R. § 273.16(c) and Wis. Stat. §§ 946.92(2).

An intentional program violation can be proven by a court order, a diversion agreement entered into with the local district attorney, a waiver of a right to a hearing, or an administrative disqualification hearing. *FoodShare Wisconsin Handbook*, § 3.14.1. The petitioner can disqualify only the individual found to have committed the intentional violation; it cannot disqualify the entire household. Although other family members cannot be disqualified, their monthly allotments will be reduced unless they agree to make restitution within 30 days of the date that the FS program mails a written demand letter. 7 C.F.R. § 273.16(b).

7 C.F.R. §273.16(e)(4) provides that the hearing shall proceed if the respondent cannot be located or fails to appear without good cause. The respondent did not appear or claim a good cause reason for not attending the hearing. Therefore, I must determine whether the respondent committed an IPV based solely on the evidence that the petitioner presented at hearing.

In order for the petitioner to establish that an FS recipient has committed an IPV, it has the burden to prove two separate elements by clear and convincing evidence. The recipient must have: 1) committed; and 2) intended to commit a program violation per 7 C.F.R. § 273.16(e)(6). In *Kuehn v. Kuehn*, 11 Wis.2d 15 (1959), the court held that:

Defined in terms of quantity of proof, reasonable certitude or reasonable certainty in ordinary civil cases may be attained by or be based on a mere or fair preponderance of the evidence. Such certainty need not necessarily exclude the probability that the contrary conclusion may be true. In fraud cases it has been stated the preponderance of the evidence should be clear and satisfactory to indicate or sustain a greater degree of certitude. Such degree of certitude has also been defined as being produced by clear, satisfactory, and convincing evidence. Such evidence, however, need not eliminate a reasonable doubt that the alternative or opposite conclusion may be true. ...

Kuehn, 11 Wis.2d at 26.

Wisconsin Jury Instruction – Civil 205 is also instructive. It provides:

Clear, satisfactory and convincing evidence is evidence which when weighed against that opposed to it clearly has more convincing power. It is evidence which satisfies and convinces you that “yes” should be the answer because of its greater weight and clear convincing power. “Reasonable certainty” means that you are persuaded based upon a rational consideration of the evidence. Absolute certainty is not required, but a guess is not enough to meet the burden of proof. This burden of proof is known as the “middle burden.” The evidence required to meet this burden of proof must be more convincing than merely the greater weight of the credible evidence but may be less than beyond a reasonable doubt.

Further, the *McCormick* treatise states that “it has been persuasively suggested that [the clear and convincing evidence standard of proof] could be more simply and intelligibly translated to the jury if they were instructed that they must be persuaded that the truth of the contention is highly probable.” 2 *McCormick on Evidence* § 340 (John W. Strong gen. ed., 4th ed. 1992).

Thus, in order to find that an IPV was committed, the trier of fact must derive from the evidence a firm conviction as to the existence of each of the two elements even though there may be a reasonable doubt as to their existence.

In order to prove the second element, i.e., intention, there must be clear and convincing evidence that the FS recipient intended to commit the IPV. The question of intent is generally one to be determined by the trier of fact. *State v. Lossman*, 118 Wis.2d 526 (1984). There is a general rule that a person is presumed to know and intend the probable and natural consequences of his or her own voluntary words or acts. See, *John F. Jelke Co. v. Beck*, 208 Wis. 650 (1932); 31A C.J.S. Evidence §131. Intention is a subjective state of mind to be determined upon all the facts. *Lecus v. American Mut. Ins. Co. of Boston*, 81 Wis.2d 183 (1977). Thus, there must be clear and

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing request (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 2nd day of January, 2026

\sKate J. Schilling
Administrative Law Judge
Division of Hearings and Appeals

- c: Western Region for Economic Assistance - email
- Public Assistance Collection Unit - email
- Division of Health Care Access and Accountability - email
- Bob Uebele - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAMail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 2, 2026.

La Crosse County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability

