



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Office of the Inspector General, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220257

PRELIMINARY RECITALS

Pursuant to petition filed October 2, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Office of the Inspector General to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Thursday, November 13, 2025, at 9:30 AM via telephone. The hearing record was left open for one week following the hearing for the respondent to submit additional documentation.

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:

Office of the Inspector General
Department of Health Services - OIG
PO Box 309
Madison, WI 53701

Respondent:

██████████
██████████
██████████

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES [REDACTED]) is a resident of Milwaukee County who received FS benefits on and off between April 2017 and March 2025.
2. In February 2014, the respondent married [REDACTED] in Milwaukee, Wisconsin. In July 2016, they purchased a home together with a joint mortgage.
3. On September 3, 2020, the respondent applied for FoodShare benefits with the agency. She reported being a household of five people which consisted of herself and four minor children (two of her own children and two foster children).
4. On October 10, 2020, the agency sent out an About Your Benefits notice to the respondent which stated she had been approved for FS benefits in the amount of \$807 per month, and that she had to report if her income exceeded \$1,810 in a month. (Agency Exhibit 3C)
5. On July 29, 2021, the agency received information from a foster care case manager that the respondent's husband was living in the home, that she had seen him in the home during home visits, and that they were joint foster parents. The agency added the respondent's husband to the FS case and requested verification of his income.
6. On August 9, 2021, the respondent called the agency and provided a sworn statement that her husband was not in the home and she had had no contact with him over the past year. The agency refused to remove him from the case based on the information from the foster care case manager.
7. On August 13 and 19, 2021, the respondent called the agency again to report that her husband was not living in the home. He was removed from the case on August 19.
8. On February 23, 2022, the respondent called the agency to reapply for FS benefits. She reported having a household of six people, two minor children of her own, and three foster children.
9. On May 31 and June 18, 2022, the respondent and her husband had several credit inquiries from the same lenders. The couple registered their vehicle with the DOT and listed themselves as joint owners who resided at the respondent's address.
10. On July 3, 2022, the respondent completed her Six Month Report Form (SMRF) online. She reported herself and three minor children in the home and that there were no changes to her case.
11. On July 13, 2022, the respondent called the agency to apply for child care for her foster child. The agency noticed that her husband had applied for assistance on his own case and reported living at the same address. The respondent told the agency worker that her husband had left the home in 2019 and she did not know where he was living.
12. On October 17, 2022, the respondent called the agency to apply for FS benefits. She stated that she had a household of six people with five minor children.
13. On July 15, 2023, the respondent and her husband renewed the registration for the vehicle in both of their names and at the respondent's address.

14. On July 19, 2023, both the respondent and her husband had a credit inquiry from the same lender.
15. On August 18, 2023, the respondent called the agency to apply for FS benefits for herself, two of her own children, and three foster children.
16. On September 14, 2023, the respondent filed a change report with the agency to remove one of her children from the home.
17. On October 6, 2023, the agency received an anonymous tip that the respondent had been bragging about using government assistance programs so that she could buy a home and cars.
18. The respondent's husband was employed with one company from April 19, 2021 through October 26, 2023. Throughout his employment, the only address he used was the respondent's address. (Agency Exhibit 4I)
19. On December 28, 2023, the respondent completed her SMRF online. She reported that it was herself and four children in the home.
20. On February 2, 2024, the respondent's husband received an offer for new employment. The letter was sent to him at the respondent's address. (Agency Exhibit 4H)
21. On April 11, 2024, both the respondent and her husband had a credit inquiry from [REDACTED]. They both reported living at the respondent's address.
22. On July 9, 2024, the respondent renewed her FS benefits. She reported having a household of five.
23. On December 27, 2024, the respondent and her husband created a petition on [REDACTED]. The petition states that they were both serving as foster parents to two foster children between August 4, 2020 and August 6, 2024, and had subsequently had the foster children removed from their home.
24. On January 4, 2025, the respondent completed her SMRF online and reported no changes to her household composition.
25. On October 9, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that the respondent misrepresented or concealed facts to obtain FoodShare benefits.

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).

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 convincing evidence that the FS recipient knew that the act or omission was a violation of the FS Program but committed the violation anyway.

The agency contends that the respondent misrepresented her household composition and concealed the fact that her husband was living in the home with her and the children while she was receiving FoodShare benefits. The agency provided voluminous documentation as evidence that the respondent’s husband had been living in the

home, including Dept. of Transportation registration records, credit inquiries, a disability payment confirmation letter, an offer of employment letter, employment verification documents, statements from foster care case managers, and the respondent's own [REDACTED] petition.

At the hearing, the respondent initially denied that she had ever received FoodShare benefits at all. The agency provided verification that the respondent had been receiving FoodShare benefits on and off between April 2017 and March 2025. (Agency Exhibits 1B and 1C) The respondent later admitted to receiving the Summer EBT FoodShare benefits for the children, and stated that she had fully cooperated with the agency and provided accurate information regarding her relationship status.

The respondent testified at the hearing that she and her husband had spent some time apart, and that he had stayed at his cousin's house while they were "going through differences." She was not able to provide an estimated timeline of when they were together or when they had been living apart. A majority of the respondent's statements during the hearing surrounded the fact that she believed the FoodShare intentional program violation investigation was in retaliation for her recent filing of a lawsuit against the county for the improper removal of foster care children from her home. She believed the timing of the investigation was suspicious and that it was done to slander her name. She also indicated that she felt that it was a conflict of interest for the agency to be investigating her, and that there were procedural errors with the agency's case, although no specific details were provided regarding the allegation of procedural errors.

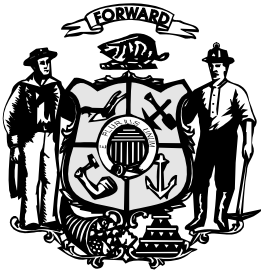
The hearing record was left open for one week following the hearing for the respondent to submit additional documentation to support her position. The respondent submitted 15 documents to the Division of Hearings and Appeals following the hearing; however, most of the documentation provided was in regard to the circuit court case that was filed about the removal of the foster children from her home. The only document that was relevant to the FoodShare intentional program violation case was a picture of her certification level 3 foster home license which stated that the license was for both the respondent and her husband for the time period of 5/20/2024 to 5/19/2026. (Petitioner's Exhibit 15). As the license was in both the respondent and her husband's name, and renewed in May 2024, it corroborates the agency's evidence that the respondent and her husband were living together to provide care as foster parents for the children.

Additionally, the agency presented evidence of a [REDACTED] petition that the respondent and her husband had posted online in December 2024 (Agency Exhibit 4J) This post states the following:

[REDACTED] and [REDACTED] love [foster child name 1] and [foster child name 2] like their own. These precious children were part of their family from 8/4/2020 to 8/6/2024, with [REDACTED] and [REDACTED] serving as the dedicated former foster parents. However, in a distressing twist of events, the kids were wrongfully removed from their foster home in retaliation from a social worker. An act masked in authority that seeks to shatter the integrity of this loving family.

(Agency Exhibit 4J) The respondent was known to use the name "[REDACTED]," and she confirmed to the agency that it was her married name. (Agency Exhibit 4G, Agency Exhibit 3J, Agency Exhibit 2) This was also the name listed on her foster care license certificate. (Petitioner's Exhibit 15) According to the [REDACTED] petition, the respondent and her husband were serving as the foster parents to these two children from 8/4/2020 to 8/6/2024. This statement confirms and corroborates the agency's contention that the respondent and her husband were living together during that time.

Based upon the record before me, I find that the petitioner has established by clear and convincing evidence that the respondent intentionally violated FS program rules, and that this violation was the first such violation committed by the respondent. Therefore, the petitioner correctly seeks to disqualify the respondent from the FS program for one year.



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 February 10, 2026.

Office of the Inspector General
Public Assistance Collection Unit
Division of Health Care Access and Accountability

