



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Office of the Inspector General, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220258

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 10:00 AM via telephone. The hearing record was held open following the hearing until December 4, 2025, at the respondent's request for submission of additional documentation. The respondent was given until November 21 to submit additional documentation, and the agency was given until December 4 to provide a response to the respondent's submissions, if desired. No documentation was received from either party following the hearing.

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 between April 2022 and December 31, 2024.
2. On December 21, 2016, the respondent married [REDACTED].
3. On March 20, 2024, the respondent completed an online renewal for FoodShare benefits for herself and her four children. She reported having no earned or unearned income and that she was living with her parents on [REDACTED] in Milwaukee. She did not report her husband as being part of the household.
4. On April 12, 2024, the agency mailed an About Your Benefits notice to the respondent indicating that her household had been approved for FoodShare benefits in the amount of \$973, and that she had a duty to report if her income exceeded \$3,048.33 in a month.
5. On May 15, 2024, the respondent's landlord provided verification of the couple's living arrangements indicating that the respondent and her husband had signed a lease on 9/1/2022 and both had remained living in the unit as tenants as of that date. (Agency Exhibit 4c)
6. On [REDACTED], a circuit court judge ruled that the respondent's husband was required to pay child support in the amount of \$205 per week starting on July 1, 2024. (WI CCAP Milwaukee County case [REDACTED], referenced in CARES case notes dated 9/23/2024, Agency Exhibit 2)
7. On June 28, 2024, the WI Bureau of Child Support-KIDS Information Data System notes state, "[REDACTED] and [the respondent] [are] in the office they are back together and want to stop order." (Agency Exhibit 4g)
8. On July 12, 2024, the circuit court judge signed a stipulation and order regarding child support. (The contents of these documents are not part of the hearing record.) (WI CCAP Milwaukee County case [REDACTED], referenced in CARES case notes dated 9/23/2024, Agency Exhibit 2)
9. On August 20, 2024, the respondent called the agency to report her new employment. The case pended for income verifications, which were provided on August 24, 2024.
10. On September 18, 2024, the respondent and her husband closed on a home they purchased and took out a mortgage together. (Agency Exhibits 4e, 4f, 4h)
11. On September 23, 2024, the respondent completed a Six Month Report Form (SMRF) and reported no changes. She continued to report that she was living at the address with her parents and without her husband.
12. On November 14, 2024, the agency investigator called the respondent regarding the fraud investigation. The respondent stated that she had lived with her parents up until she purchased the home with her spouse and that they moved in together in September or October 2024. The respondent told the agency investigator that she had been receiving child support payments and that she had not gone into the child support office in June 2024 to request that the child support payments be stopped. (Agency Exhibit 2)
13. On November 24, 2024, the respondent called the agency and reported that she no longer lived with her parents and that she had moved in with her husband. (Agency Exhibit 2)

14. On October 9, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that the respondent misrepresented information or concealed facts to obtain FS 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 failed to report her husband was living in the home and that he had earned income during the time she received FoodShare benefits. The respondent completed her FoodShare renewal in March 2024. At that time, she reported living with her parents and children and that she had no income.

During an investigation into the case, the agency discovered that the respondent was married in December 2016 and had signed a lease with her husband in September 2022. According to their former landlord, they remained living in that apartment until at least May 2024. (Agency Exhibit 4c) In June 2024, the couple went to the local child support office and requested the child support order cease as they were “back together.” (Agency Exhibit 4g) In September 2024, the couple purchased a home together and took out a joint mortgage.

At the hearing, the respondent testified that she and her husband had had gaps in their relationship where they had been separated. She further testified that her landlord *did* know about some of these separations as she had notified her landlord of this herself. The hearing record is not clear if this was communicated with the landlord before or after the May 15, 2024 email from the landlord. The respondent also purportedly disputes the accuracy of the statement from the child support office that she and her spouse went there in person in June 2024 and reported being back together. (Agency Exhibit 2) At the hearing, the respondent could not provide any details regarding the dates that the couple had been separated or when they were back together. The hearing record was left open so that the respondent could provide additional information about the dates that the couple had been separated; however, no additional information was received.

A change in household composition—someone moving in or out of the home—is generally not a mandatory reporting requirement outside of an annual renewal or a Six Month Report Form. *FS Handbook* § 6.1.1. However, a change in household composition *is* required to be reported at a renewal or Six Month Report Form (SMRF). *FS Handbook* § 6.1.2. If the household’s income goes over the 130% FPL reporting threshold in between renewals or the SMRF, that is required to be reported by the tenth of the following month. *FS Handbook* § 6.1.1. On September 23, 2024, the respondent called the agency to complete her Six Month Report Form (SMRF), and she reported no changes to her living situation at that time. However, the respondent had just purchased a home with her husband on September 18, 2024, less than a week prior to completing the SMRF.

The respondent should have notified the agency at her Six Month Report in September 2024 that she and her husband had reconciled and purchased a home together. I am substantiating the FoodShare intentional program violation against the respondent for failing to report this at a mandatory reporting time. I will note that it is not fully clear to me when and if the respondent and her husband reconciled prior to September 2024 as there is contradictory information as to this point in the hearing record.

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.

CONCLUSIONS OF LAW

1. The respondent intentionally misrepresented information and concealed facts in violation of Wis. Stat. §946.92 (2)(a) and committed an intentional program violation as defined in 7 C.F.R. § 273.16(c)(1).
2. The violation specified in Conclusion of Law No. 1 is the first such violation committed by the respondent.

NOW, THEREFORE, it is ORDERED

That the petitioner’s determination is sustained, and that the petitioner may make a finding that the respondent committed a first IPV of the FoodShare program and disqualify the respondent from the program for one year, effective the first month following the date of receipt of this decision.

APPEAL TO COURT

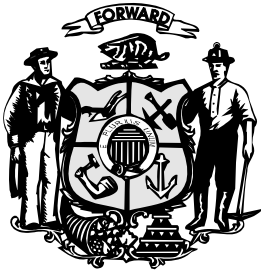
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in 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 10th day of February, 2026

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

- c: Office of the Inspector General - email
- Public Assistance Collection Unit - email
- Division of Health Care Access and Accountability - email
- Tanya Allen - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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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

