



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Brown County Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220295

Pursuant to petition filed October 6, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Brown County Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing by telephone was held on Monday, December 8, 2025, originating from Madison, Wisconsin. A hearing scheduled for November 18, 2025, was rescheduled at ██████████'s request.

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:

Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

Respondent:

██████████
██████████
██████████

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # [REDACTED]) is a resident of Brown County who received FS benefits at various times in Brown County from May 2008 through March 2025.
2. The respondent was issued the Enrollment and Benefits Handbook on March 15, 2021; November 15, 2021; November 21, 2022; November 10, 2023; and January 3, 2024. This set forth program rules and responsibilities. This included the rule that it is a program violation to intentionally provide false information or verification. It further informed that a first IPV could result in being barred from the program for 12 months.
3. The respondent has children in common with MO.
4. At the time relevant to this case, respondent lived at [REDACTED].
5. During phone contact with the agency on September 12, 2024, the respondent reported that she was living with her children's paternal grandfather (RC) but that MO was not living with them. She reported she did not know MO's address.
6. On November 5, 2024, the FS agency pended respondent's FS case for verification of household composition.
7. On November 19, 2024, the respondent contacted the FS agency to complete her FS renewal. She denied that MO was living in the home. She reported MO stays with his mother. The agency worker notified her that she needed to provide verification of where MO was living.
8. FS was denied as verification was not provided by the deadline.
9. On December 11, 2024, the respondent provided the agency a statement purportedly authored by RC (her children's paternal grandfather) indicating that MO did not live with them at [REDACTED].
10. The respondent had three separate telephonic interactions with the FS agency on December 16, 2024, regarding her household composition. During the first call, respondent reported that she was not sure where MO was living and did not have any contact with him. During the second call, the respondent reported that MO does not live with her and that she does not have any contact with MO. During the third call, the respondent reported that she had not had contact with MO for 3 years, but that she just found out that he was living with his brother GC. The respondent was informed that a written statement from GC reporting where MO was living may be acceptable verification. Respondent indicated she would provide that verification.
11. On December 17, 2024, the agency received a written statement purportedly from GC that indicated his brother MO lives with him at [REDACTED].
12. On December 17, 2024, [REDACTED], Brown County Sheriff's Department interviewed respondent at her home. Respondent indicated that MO did not live there and that he lived with his brother GC.

During the interview, she confirmed that MO was currently at her residence. She indicated that MO comes over to visit their kids after work.

13. On January 10, 2025, [REDACTED] interviewed GC at his residence. GC reported that his brother MO does not live with him. He further reported that MO lives on Garden Grove (where respondent lives) for about 2 years.
14. On January 14, 2025, [REDACTED] interviewed GC a second time. GC was shown the written statement provided the FS agency that he purportedly authored that indicated MO lived with him, as set forth in Findings of Fact 11. GC denied writing, signing, or authorizing anyone to write the letter on his behalf. He again confirmed that MO lived at [REDACTED].
15. On November 18, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that respondent committed an intentional FS program violation by making a false or misleading statement or misrepresenting or withholding facts.

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. Those disqualified on grounds involving the improper transfer of FS benefits are ineligible to participate in the FoodShare program for one year for the first violation, two years for the second violation, and permanently for the third violation. 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.

FS is a means-tested program based upon household size, allowed expense deductions, and household income. As noted above, a FS recipient commits an Intentional Program Violation by intentionally making a false or misleading statement or misrepresents or withholds facts in order to receive FS benefits. *See*, Wisconsin FoodShare Handbook, § 3.14.1; Wis. Stat. § 946.92(2); and 7 C.F.R. § 273.16(c). FS applicants and recipients are required to accurately report household composition, income, and employment to the FS agency. Wis. Stat. § 946.92(2). They are also prohibited from misstating or concealing facts regarding household circumstances, such as employment and household composition, for purposes of securing or continuing FS benefits. *Id.*

The record indicates that respondent was informed of FS program rules and possible consequences for committing intentional program violations. This included the warning that it was a program violation to intentionally provide false information.

The record further indicates that respondent provided the FS agency false information about where MO, the father of at least one of her children, was living and when she last had contact with him. On December 16, 2024, she participated in three separate audio recorded phone calls with the FS agency. During those calls

she repeatedly denied MO was living with her. Of further note, she repeatedly denied having contact with MO, reporting that she had not had contact with him for three years. She was informed that a statement from GC, MO's brother, may be sufficient to demonstrate where MO was living. The next day, respondent provided the agency a letter purportedly authored and signed by GC that indicated MO lived with him. When later interviewed by law enforcement, GC denied writing or signing that statement, reporting that MO lived at the [REDACTED] address for the past two years. Also of note, on December 17, 2024 (the day after respondent's phone calls with the FS agency), law enforcement had contact with respondent at the [REDACTED] residence. MO was also present in the residence. Respondent reported to the officer that MO visits the kids at the home after work. This contradicted her earlier statements to the FS agency wherein she reported that she had not had contact with MO for 3 years. FS rules require that adult parents who are living together with their minor children be included in the same FS household, even if the parents are not married and do not purchase and prepare meals together. See, FS Handbook, 3.3.1.3 and 7 CFR 273.1(b)(1). This means MO's income would impact respondent's FS eligibility and allotment. The respondent did appear at the hearing. She did not, however, testify, provide evidence, or rebut the agency's evidence and argument that she had committed an intentional violation of the FS program by providing the agency false information.

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 by providing the agency false information, 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 violated and intended to violate 7 C.F.R. § 273.16(c).
2. The agency properly seeks to disqualify Respondent from the FoodShare program for a period of one year pursuant to 7 C.F.R. §273.16(b)(1).

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.

REQUEST FOR A REHEARING ON GROUNDS OF GOOD CAUSE FOR FAILURE TO APPEAR

In instances where the good cause for failure to appear is based upon a showing of non-receipt of the hearing notice, the respondent has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. See 7 C.F.R. sec. 273.16(e)(4). Such a claim should be made in writing to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

APPEAL TO COURT

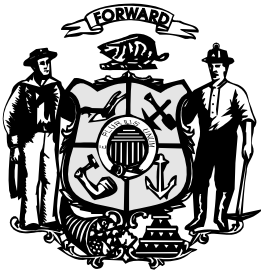
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in 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 16th day of January, 2026

\sJason M. Grace
Administrative Law Judge
Division of Hearings and Appeals

c: Bay Lake Consortium - email
Public Assistance Collection Unit - email
Division of Health Care Access and Accountability - email
Jamie Carlson - email



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The preceding decision was sent to the following parties on January 16, 2026.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability

