



**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

Eau Claire County Department of Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220327

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Pursuant to petition filed October 8, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Eau Claire County Department of Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held via teleconference initiated from Madison, Wisconsin on Tuesday, November 18, 2025 at 09:00 AM.

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:

Eau Claire County Department of Human Services  
721 Oxford Avenue  
PO Box 840  
Eau Claire, WI 54702-0840

Respondent:

██████████  
██████████  
██████████

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The respondent (CARES # ██████████) is a resident of St. Croix County who received Wisconsin FoodShare (FS) benefits from May 2025 through September 2025.

2. Respondent was incarcerated at the [REDACTED] from September 10, 2025 through at least October 8, 2025.
3. While Respondent was incarcerated, he gave permission to his niece, [REDACTED], to use his FS card to make purchases for herself and for Respondent's mother.
4. On September 27, 2025, [REDACTED] used Respondent's FS card to make a purchase at [REDACTED].
5. On October 1, 2025, Aaron Borreson, an agency fraud investigator, interviewed Respondent regarding the use of his FS card during his incarceration. At that time, Respondent admitted that he gave his EBT card to his niece, and that he also gave her permission to use it to make purchases for herself and/or his mother. He admitted to Fraud Investigator Borreson that he knew he should not have done so.
6. On November 26, 2024, the agency mailed Respondent an "Enrollment and Benefits" booklet which included information regarding intentional program violations and specified that a FS recipient who allows another to use their FS card to buy food that is not for the recipient's household may be barred from the FS program for a period of time. The booklet included examples of actions that may be found to constitute an intentional program violation, including the following: "Mark is the only person in his family getting FoodShare benefits. Mark finds out he is going to jail for the month, so he gives his QUEST card to his friend, Sally, to do her grocery shopping while he is in jail." Ex. 8.
7. On October 9, 2025, the agency prepared and mailed an Administrative Disqualification Hearing Notice to Respondent at the mailing address he had most recently provided to the agency and to the [REDACTED]. The notice included the date and time of the hearing, the agency's allegation, the penalty that the agency was seeking, and instructions to provide the undersigned administrative law judge with a telephone number where he could be reached for the hearing. As of the date of the hearing, neither mailed notice had been returned to the agency as undeliverable or with a forwarding address.
8. 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 (IPV) 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 individual who commits an IPV can be disqualified from participation in the FS program. The length of the disqualification period depends, in part, on the nature of the IPV. See 7 C.F.R. § 273.16(b). Generally, an individual will be disqualified for twelve months after committing her or his first IPV. See 7 C.F.R. § 273.16(b)(1)(i). The agency 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).

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 (“ADH”), *FoodShare Wisconsin Handbook*, § 3.14.1. When an ADH is scheduled, it must proceed even if the respondent cannot be located or fails to appear without good cause. See 7 C.F.R. §273.16(e)(4). The agency mailed a hearing notice to respondent at his preferred mailing address and to the jail where he was incarcerated as of the date on the hearing notice. Respondent, however, did not appear for the hearing. Therefore, the Division of Hearings and Appeals is required to determine whether the respondent committed an IPV based solely on the evidence that the petitioner/agency presented at the ADH.

To establish, at hearing, that a FS recipient has committed an IPV, the petitioner must provide the following two separate elements through the presentation of clear and convincing evidence: (1) the recipient committed a program violation; and (2) the recipient 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., 4<sup>th</sup> 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 contended that Respondent committed an intentional program violation by allowing a third party to use his FS EBT card while he was incarcerated. Pursuant to federal regulation, eligible food program benefits may be used only by a FS household or by an individual the FS household selects to purchase eligible food *for the household*. 7 C.F.R. §274.7(a). Similarly, under Wisconsin Statutes, it is a FS offense for an eligible person to knowingly transfer FS benefits except to purchase food from a supplier. Wis. Stat. §946.92(2)(d). A FS recipient who allows their benefits to be used for the benefit of someone outside of their household is therefore violating FS program rules.

Agency Representative Borreson, who appeared at hearing for the agency, credibly testified that he interviewed Respondent on October 1, 2025 at the [REDACTED], that Respondent admitted to allowing his niece to use his FS benefits for herself and for his mother--neither of whom were members of his FS household, and that Respondent further admitted that he knew he should not have done so. The agency also offered the following reliable evidence: a booking sheet from the jail where Respondent was incarcerated on September 10, 2025, an EBT transaction log showing that Respondent's EBT card was used on September 27, 2025--a date on which he remained incarcerated, and agency records documenting the issuance to Respondent of the "Enrollment and Benefits" booklet which included information regarding the prohibition on allowing others to use one's FS card. Respondent did not appear at the hearing to rebut or explain the agency's evidence.

Based upon the record before me, I find that the agency 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 agency correctly seeks to disqualify the respondent from the FS program for one year.

#### CONCLUSIONS OF LAW

1. The respondent violated, and intended to violate, Wis. Stat. §946.92(2)(d) and 7 C.F.R. §274.7(a) and thereby committed an intentional program violation, as that term is defined in 7 C.F.R. § 273.16(c).
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.

#### **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).

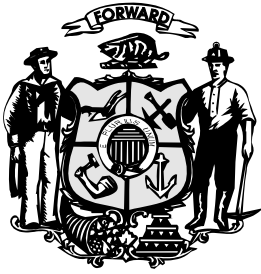
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 11th day of February, 2026

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\sTeresa A. Perez  
Administrative Law Judge  
Division of Hearings and Appeals

c: Great Rivers Consortium - email  
Public Assistance Collection Unit - email  
Division of Health Care Access and Accountability - email  
Aaron Borreson - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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

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

The preceding decision was sent to the following parties on February 11, 2026.

Eau Claire County Department of Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability

