



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Eau Claire County Department of Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220328

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 09:15 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
By: Aaron Borreson

Respondent:

██████████
██████████
██████████

Did Not Appear

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of Pierce County who received FS benefits in Pierce County from at least July 2024 through October 2025.

2. Respondent was employed by [REDACTED] from at least May 2024 through September 2025.
3. Respondent submitted a six month report form to the agency on September 8, 2024, a FS renewal form via the ACCESS on March 20, 2025, and another six month report form on September 7, 2025. In addition, she completed a telephone renewal interview on March 31, 2025. She did not report employment with, or income from, [REDACTED] at any of those times.
4. In May 2024, the agency asked either Respondent or [REDACTED] to verify whether she was employed by [REDACTED], and, if so, to provide information regarding her dates of employment and income.
5. On or about June 5, 2024, the agency received an Employer Verification of Earnings Form (EVFE) that inaccurately indicated that Respondent had never been employed by [REDACTED]. That form had the forged signature of [REDACTED], a [REDACTED] staff member.
6. On October 9, 2026, the agency mailed an Administrative Disqualification Hearing Notice alleging that Respondent “failed to report accurate income when asked by agency, at SMRF in September 24, and again at Renewal in March 25” and that the agency was seeking to disqualify her from the FS program for one year.
7. The hearing notice sent to Respondent stated that a hearing would occur on November 18, 2025 via telephone and instructed her to call the undersigned administrative law judge to provide a contact phone number. She did not do so; however, the ALJ attempted to reach her at the telephone number printed on the hearing notice.
8. The agency mailed the hearing notice to Respondent at the mailing address she had most recently provided to the agency.
9. The respondent failed to appear for the scheduled hearing and did not provide any good cause for his failure to appear.

DISCUSSION

An intentional program violation (IPV) of the FoodShare (FS) 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 IPV 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.

When an administrative disqualification hearing is scheduled and the respondent does not appear, the hearing shall nevertheless proceed if the respondent cannot be located or fails to appear without good cause. See 7 C.F.R. §273.16(e)(4). Here, Respondent did not appear at the hearing and has not, as of the date of this decision, contacted the Division of Hearings and Appeals to claim a good cause reason for not attending the hearing.

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., 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.

Wis. Stat. §946.92(2)(a) prohibits an individual from misstating or concealing facts in a FoodShare program application or report of income with intent to secure or continue to receive FS benefits. The agency contended that Respondent intentionally misrepresented facts by failing to report her employment multiple times and that she received benefits that she was not entitled to receive as a result.

The agency offered considerable and persuasive documentary evidence including the following: a copy of pay documentation received from ██████████ in September 2025 which shows that Respondent was working and earning income when she completed her six month report forms in September 2024 and September 2025 and when she completed an annual renewal in March 2025, a copy of forged income verification that the agency received in June 2024 indicating that Respondent never worked for ██████████ (The June 2024 forged document appears to have been faxed to the agency from “██████████”, which is either Respondent’s family farm or a farm where her spouse is employed.), and an e-mail from ██████████ denying submission of the June 2024 document. In addition to documentary evidence, the agency produced a copy of the recording of the March 2025 renewal interview that Respondent completed by telephone and during which she denied that her household had income aside from the income received by her spouse.

The respondent did not appear at the hearing to refute the agency’s contention that she intentionally provided false information to the agency when she repeatedly denied employment despite ongoing full-time employment at ██████████. And, there is no persuasive evidence in the record to suggest that those multiple inaccurate reports were made due to misunderstanding or some other good faith error. Absent rebuttal, an individual who is employed full-time but who, when requesting a needs based benefit program, denies income can be presumed to be attempting to obtain benefits to which she is not entitled.

The agency stopped shy of asserting that Respondent submitted the forged income verification in June 2024 though that is a reasonable inference. Presumably, the agency recognized that the forged document may have been submitted by either Respondent or her spouse. Setting that question aside, the record includes more than enough evidence to prove that Respondent’s repeated denials of employment were false and intentionally made.

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 when she inaccurately reported that her household income was limited to her spouse’s self-employment and employment income, 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 misrepresented, concealed or withheld facts by failing to accurately report her employment income when she completed six month report forms in September 2024 and September 2025 and when she completed a renewal in March 2025; she thus violated Wis. Stat. §946.92(2)(a) and thereby committed an intentional program violation as that term is 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.

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

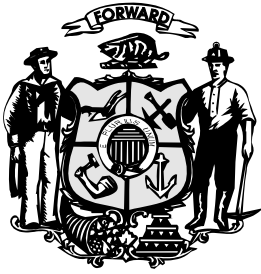
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in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

\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
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 11, 2026.

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

