



**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 - 220580

---

Pursuant to petition filed October 27, 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 by telephone was held on Tuesday, December 9, 2025, originating from Madison, Wisconsin.

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:**

Jason M. Grace  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The respondent (CARES # [REDACTED]) is a resident of NA who received FS benefits in Eau Claire County from August 2024 through October 2025.
2. The respondent was issued an Enrollment and Benefits Handbook on April 12, 2019; January 28, 2020; May 17, 2024; and June 6, 2025. 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. On April 7, 2025 an eviction action was filed in Wisconsin against respondent for the premises located at [REDACTED]. A default judgement for eviction was entered May 1, 2025.
4. On May 6, 2025, the respondent called the Wisconsin FS agency to close her FS and healthcare benefits immediately as she moved to Minnesota.
5. On May 9, 2025, respondent signed a lease for residential property at [REDACTED]. The lease was to run May 9, 2025 through April 30, 2026.
6. On May 13, 2025, an online purchase was made with respondent's FS card and delivered to [REDACTED].
7. On June 5, 2025, respondent submitted an ACCESS FS application to Wisconsin. She reported she was living in Wisconsin and provided a mailing address of [REDACTED]. The application contains a FS Penalty Warning that indicated it is a program violation to intentionally provide false information or hide information to get FS benefits. It further informed that a first intentional program violation could result in being barred from the program for 12 months.
8. During the FS interview of June 5, 2025, respondent reported she had intended to move to Minnesota but never did. She reported being homeless but currently staying with her mother at [REDACTED].
9. Respondent was issued Wisconsin FS benefits June 5, 2025 through October 2025.
10. On August 8, 2025, Notice to Tenant of Future Eviction Action was provided to respondent at [REDACTED]. On September 18, 2025, an Eviction Action was filed in Minnesota seeking to evict respondent from the residence. It was indicated that respondent was still in possession of the premises and failed to pay rent for August and September 2025. On October 2, 2025, an eviction notice was mailed to respondent at [REDACTED] for a hearing scheduled for October 10, 2025.
11. On August 15, 2025, an online purchase was made with respondent's FS card and delivered to [REDACTED].
12. On October 28, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that respondent committed a FS intentional program violation by intentionally misrepresenting or withholding facts or making a false or misleading statement. Specifically, that she falsely reported living in Wisconsin when she applied for Wisconsin FS in June 2025.
13. The respondent failed to appear for the scheduled December 9, 2025 Intentional Program Violation (IPV) hearing and did not provide any good cause for said failure to appear.

## 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).

7 C.F.R. §273.16(e)(4) provides that the hearing shall proceed if the respondent cannot be located or fails to appear without good cause. The respondent did not appear or claim a good cause reason for not attending the hearing. Therefore, I must determine whether the respondent committed an IPV based solely on the evidence that the petitioner presented at hearing.

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., 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.

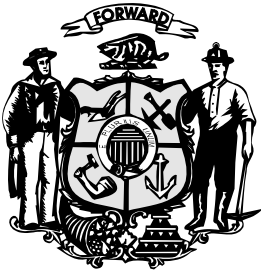
FS is a means-tested program based upon household size, allowed expense deductions, and household income. As noted above, a FS recipient commits an Intentional Program Violation by intentionally making a false or misleading statement or misrepresents or withholds facts in order to receive FS benefits. See, Wisconsin FoodShare Handbook, § 3.14.1; Wis. Stat. § 946.92(2); and 7 C.F.R. § 273.16(c).

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 also supports the agency’s position that respondent provided false information about living in Wisconsin when she applied for Wisconsin FS on June 5, 2025. On May 6, 2025, she closed her Wisconsin FS benefits as she was moving to Minnesota. That she moved to Minnesota is supported by a lease she signed for a residence in Minnesota, with the lease running from May 9, 2025 through April 2026. That she moved to that residence was further reinforced by the fact she had an online food order delivered to that Minnesota address on May 13, 2025. On June 5, 2025, she applied for Wisconsin FS, reporting that she never moved to Minnesota. Her Wisconsin FS benefits thereafter were used both in Wisconsin and Minnesota. Her mother lived in Superior, Wisconsin, which would explain the usage of those benefits in Wisconsin. That she continued to live in Minnesota was that her landlord started an eviction process for the Minnesota lease on September 18, 2025, with the court filing alleging that respondent was still in possession of the residence. Notice of the court action was also provided to her at the Minnesota residence. She also had an online food order delivered to the Minnesota residence on August 15, 2025. The respondent did not appear at the hearing to provide testimony, evidence, or otherwise rebut the agency’s evidence and argument that she falsely reported living in Wisconsin when she applied for Wisconsin FS on June 5, 2025.

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 false information to the Wisconsin FS agency during her June 5, 2025 FS interview, 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  
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 January 16, 2026.

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

