



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Office of the Inspector General, Petitioner

vs.

██████████ Respondent

DECISION

Case #: FOF - 220582

PRELIMINARY RECITALS

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 Office of the Inspector General to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Thursday, December 11, 2025 at 10:00 AM via telephone.

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 # ██████████) is a resident of Walworth County who received FoodShare (FS) benefits on and off between January 2021 and September 2022. She also received FS benefits between January 2025 and October 2025.

2. On July 25, 2021, the respondent completed an online FoodShare renewal and indicated that she lived with her partner and their two children. She reported that the only income in the household was from her employment at [REDACTED].
3. On October 14, 2021, the respondent completed a FoodShare phone application. She again reported that the only income in the household was from her employment at [REDACTED].
4. On April 27, 2022, the respondent completed her Six Month Report Form (SMRF) and again reported that the only income in the household was from her employment at [REDACTED].
5. On October 14, 2022, the respondent completed a FoodShare renewal over the phone and reported that the only income in the household was from her employment at [REDACTED].
6. On January 16, 2025, the respondent's partner called the agency to renew their children's Medicaid benefits. He reported to the agency that he co-owned [REDACTED] with a business associate. He stated that the business began in January 2021 and that he currently pays himself \$2,000 to \$2,500 per month in wages.
7. On July 24, 2025, the agency requested verification of the respondent's partner's self-employment income. The agency did not receive a response to this request.
8. On October 29, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that the respondent misrepresented or concealed information 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 the respondent concealed the fact that her partner had been a co-owner in a business since January 2021. The respondent did not disclose her partner’s self-employment income when she renewed her FoodShare benefits in July 2021, October 2021, April 2022, and October 2022. According to the renewal summaries that were submitted by the agency, the respondent indicated that she was living with her partner, that he was not employed, and that no one in the household was self-employed. (Agency Exhibits 6, 8, 9, and 10) Notably, the respondent did report her own employment income at each FoodShare renewal and provided verification of her income to the agency as requested.

At the hearing, the respondent testified that she was aware that her partner had co-owned a business with another person. However, she asserted that she and her partner had always maintained their finances separately and he did not provide her with any financial information. She stated that she had asked her partner to fill out the self-employment income verification form, but he had refused. As she was unaware of his income, she felt that she could not provide an accurate estimate to the agency.

The respondent’s partner’s phone call to the agency in January 2025 corroborates the respondent’s assertion that they kept separate finances, and she was not aware of his income from the business. (Agency Exhibit 12)

Nevertheless, the FoodShare rules require that the income from all members of the assistance group be reported to the agency. *FS Handbook* § 4.3.1. FoodShare benefit allocations are determined by the number of people within the assistance group as well as the household income. *FS Handbook* §§ 1.1.4 and 3.3.1.1. Therefore, the respondent was receiving a benefit by having her partner as part of the assistance group, but not reporting his income to the agency to use as part of the eligibility determination.

According to federal law and the *FS Handbook*, the respondent's partner was required to be part of her FS assistance group as he and the respondent lived together and had minor children together. *FS Handbook* § 3.3.1.3; See also 7 CFR § 273.1(b)(1). Had the self-employment income been reported, the agency would have requested tax records from the business or that self-employment income reporting forms be completed. *FS Handbook* § 4.3.3. Simply put, the agency would not have issued any FoodShare benefits without this verification as it was required information for the eligibility determination.

The respondent knowingly concealed her partner's ownership in a business when she applied for and renewed her FoodShare benefits on four different occasions. She affirmatively indicated that her partner was not working and did not have self-employment income each time. This was not just a slight increase in earnings that someone neglected to report; this was repeated, intentional concealment of self-employment income over more than a year. As such, the respondent's conduct meets the standard for a FoodShare intentional program violation.

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

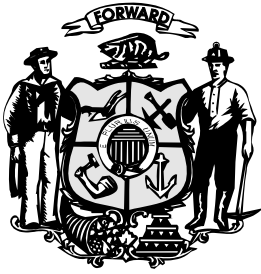
You may appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in this 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 12th 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
Angela Dempewolf - 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 12, 2026.

Office of the Inspector General
Public Assistance Collection Unit
Division of Health Care Access and Accountability

