



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Office of the Inspector General, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220728

Pursuant to petition filed November 6, 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 Tuesday, December 23, 2025 at 09:15 AM 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:

Office of the Inspector General
Department of Health Services - OIG
PO Box 309
Madison, WI 53701

Respondent:

██████████
████████████████████
██████████

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of Dane County who has received FS benefits in Dane County.

2. On January 4, 2024, two online posts were made by the Facebook profile [REDACTED] (linked to Respondent's boyfriend, FW) stating "\$775 left on green card to go dm if you need em." And "\$800 on that green card to go if u need em dm first come first serve." (Exhibit 5)
3. Neither the Respondent nor FW use their legal names on their Facebook profiles. the [MS] and [ME] accounts belong to Respondent, and the [REDACTED] profile belongs to FW (see Exhibit 5B).
4. In addition to the two social media posts, the complainant sent Petitioner two screenshots of messaging from their phone with [REDACTED] via Facebook messenger. These messages show [REDACTED] informing the buyer to use Cash app or PayPal to send the money before he sends the card number, also informing buyer to place an online order and use the card number under selected payment method. [REDACTED] states "\$775 for \$385". The final screenshot is a picture of Respondent's EBT card. (Exhibit 5)
5. Respondent has been provided with several educational materials informing her that selling or exchanging her FS benefits violates FS program rules (See Ex. 4).
6. On January 22, 2023, the Respondent had two (2) purchases completed within five (5) minutes. Data analytics demonstrate that short timeframe transactions are a high-risk fraud indicator that misuse is occurring.
7. There are numerous online orders/deliveries to addresses not associated with the respondent.
 - 1/24/23 – an Iowa Delivery; the day prior there is an online order in Wisconsin
 - 8/10/23 – an Illinois Delivery; the same day there is an online order in Wisconsin
 - 12/7/23 – an Illinois Delivery; the same day there is an online order in Wisconsin
 - 12/10/23 – an Illinois Delivery; a Wisconsin order a couple days prior
 - 1/5/24 – an Illinois delivery; the day prior an online order in Wisconsin(Exhibit 6)
8. Online transactions sent for pickup show that the individual pickup account details are for individuals not included in this Respondent's food group.
 - There are six (6) different delivery addresses from January 29, 2023-April 21, 2024 that are not to the Respondent's address.
 - There are seven (7) different people placing orders for pickup or delivery that are not associated with this Respondent. (*Id.*)
9. Petitioner's data shows unrelated phone numbers that have checked the balance on the Respondent's EBT card. For a caller to check the balance, they must have the full sixteen-digit EBT card number, full date-of-birth (DOB) (system required as of April 2023), and Personal Identification Number (PIN). From January 21, 2023 to August 15, 2024, there were 6 different phone numbers that called to check the balance 57 times. The Petitioner's analysis of the balance inquiries determined that:
 - Out of all the balance inquiries completed 68% were not affiliated with the Respondent.
 - There was one phone number linked to one CWW case that is not affiliated with the Respondent.(*Id.*)
10. Online order information from [REDACTED] reveals that the Respondent had multiple deliveries/pickups made by individuals who are not in the Respondent's food group. Out of the 51 online purchases from January 23, 2023 – August 15, 2024, only 24 (or 47%) were made by/for Respondent. (See Exhibits 6 and 7)

11. On November 19, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging:

“The Respondent was investigated when the OIG received a fraud complaint stating the Respondent and her boyfriend, [FW], have been selling their FS benefits online. The investigation found that on 1/4/24, the Respondents’ boyfriend, [FW] (Facebook profile name: ██████████) posted on Facebook to sell FS benefits. The messages via Facebook messenger, included with the complaint, show [FW]’s profile sending a picture of the Respondent’s Electronic Benefits Transaction (EBT) card, detailing the method of payment (PayPal or Cash App) accepted and the amount of FS benefits they were selling (\$775 for \$385). Although the Respondent did not make the post, she did provide [FW] access to her EBT card and Personal Identification Number (PIN) in order to complete these transactions. Additional misuse was identified with the Respondents EBT usage.”

(Exhibit 8)

12. The respondent failed to appear for the scheduled December 23, 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 (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 a first IPV, for two years after committing a second IPV, and permanently after committing a third IPV. See 7 C.F.R. § 273.16(b)(1). 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, the household’s 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, or an administrative disqualification hearing. *FoodShare Wisconsin Handbook* § 3.14.1. 7 C.F.R. §273.16(e)(4) provides that an administrative disqualification 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.

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.

Pursuant to federal regulations, 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). The federal regulations also prohibit “attempting to buy, sell, steal, or otherwise affect an exchange of SNAP [benefits](#) . . . for cash or consideration other than eligible food.” See 7 C.F.R. §271.2 and 7 C.F.R. § 273.16(c). And, the USDA, the federal agency charged with oversight of the Supplemental Nutritional Assistance Program (i.e., FoodShare in Wisconsin) has issued a memo clarifying that SNAP federal regulations prohibit the attempt to sell benefits on-line. See Exhibit 7 and 7 C.F.R. §271.2.

The Respondent was investigated when the OIG received a fraud complaint stating the Respondent and her boyfriend, FW, had been selling their FS benefits online, and they were scamming people out of money. The investigation found that on January 4, 2024, FW (Facebook profile name: ██████████) posted on Facebook to sell FS benefits. The messages via Facebook messenger, included with the complaint, show FW’s profile sending a picture of the Respondent’s Electronic Benefits Transaction (EBT) card, detailing the method of payment (PayPal or Cash App) accepted and the amount of FS benefits they were selling (\$775 for \$385).

APPEAL TO COURT

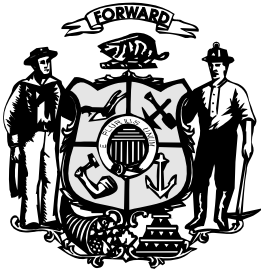
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in 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 27th day of January, 2026

\sPeter McCombs
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
- Nadine Acker - 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 January 27, 2026.

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

