



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Vernon County Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220793

Pursuant to petition filed November 12, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Vernon County Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Tuesday, December 23, 2025 at 10:30 AM at La Crosse, 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:

Vernon County Human Services
318 Fairlane Drive, Suite 100
Viroqua, WI 54665-6131

Respondent:

██████████ (did not appear)

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of La Crosse County who received FS benefits in La Crosse County from July 1, 2018 – April 30, 2024.
2. On or about October 26, 2023, the Petitioner emailed to Respondent confirmation of an online ACCESS application that identified specific FS rules and specifically referenced the prohibition on using the FS benefits of another FS recipient. (Exhibit 2)

3. On January 19, 2024, the Petitioner sent the Respondent an FS Enrollment and Benefits booklet which again reiterated the prohibition on using the FS benefits of another recipient. (See Exhibits 2 and 3)
4. On January 10, 2025, at 11:54 PM, a purchase at [REDACTED] was made with a FoodShare QUEST card ending in # [REDACTED] for \$23.03, by an unknown male. (Exhibits 5 & 6). That QUEST card belongs to MC.
5. Four minutes after the January 10, 2025, purchase noted in Finding #4, [REDACTED] surveillance video shows the Respondent using MC's QUEST card to complete her purchase in the amount of \$7.07 at 11:58 PM (Exhibits 5, 6, & 7)
6. The Respondent is not an authorized user of MC's QUEST card, nor is she a member of MC's Foodshare household.
7. MC is a member of a 1-person FS household.
8. The agency pursued an intentional program violation (IPV) regarding MC's improper authorization of others to use his FS benefits. On October 8, 2025, the Petitioner's IPV determination was sustained against MC for FoodShare trafficking. See DHA Decision FOF-219213. (Exhibit 9)
9. On November 12, 2025, the Petitioner prepared an Administrative Disqualification Hearing Notice alleging that Respondent used another person's FoodShare QUEST card to purchase items for her household.
10. The respondent failed to appear for the scheduled December 23, 2025, 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, 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 IPV 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.

When an administrative disqualification hearing is scheduled, it must proceed even if the respondent cannot be located or fails to appear without good cause. 7 C.F.R. §273.16(e)(4). 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 an 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 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). And, pursuant to state statute, an “unauthorized person” is prohibited from knowingly using FS benefits. Wis. Stat. §946.92(2)(f). “Unauthorized person” is defined to include a person who is not an eligible person. Wis. Stat. §946.92(2)(e)3. Consistent with the above-cited federal regulation and state statute, FS policy states:

The cardholder is the only person that can make authorized purchases on the QUEST card, unless he or she verbally authorizes another person to make purchases on their behalf for their assistance group.

[Emphasis added.] *FoodShare Wisconsin Handbook* §7.3.2.4.

The agency here contended that Respondent committed an intentional program violation by using FS benefits that were issued to MC. The agency's evidence included time and date stamped surveillance footage from [REDACTED] showing Respondent at a cash register and a transaction history log showing the dates, times, amounts, and locations of purchases made with MC's QUEST card. Together that documentation established that Respondent used MC's Quest card on January 10, 2025, and showed the amount that was purchased.

Respondent did not appear at hearing to explain or rebut the agency's persuasive evidence that she used MC's FS card for her own benefit. The agency also produced evidence that she had been notified in writing of the prohibition on using or transferring benefits and the potential penalties for breaking FS program rules.

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 violated, and intended to violate, Wis. Stat. §946.92(2)(f) and 7 C.F.R. §274.7(a).
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

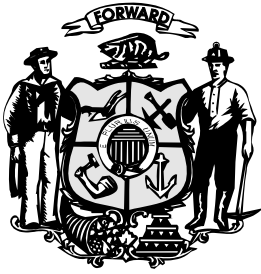
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in 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 28th day of January, 2026

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals

- c: Western Region for Economic Assistance - email
- Public Assistance Collection Unit - email
- Division of Health Care Access and Accountability - email
- Tonia Hanson - email



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The preceding decision was sent to the following parties on January 28, 2026.

Vernon County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability
[REDACTED]