



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Office of the Inspector General, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220836

Pursuant to petition filed November 17, 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 (“the agency” / “petitioner”) to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Wednesday, January 28, 2026 at 09:00 AM via teleconference initiated from Madison, Wisconsin. The hearing was first scheduled for January 7, 2026. At that time, Respondent appeared but reported he had not yet received the Summary of Evidence sent by the agency. Accordingly, the hearing was postponed and, at Respondent’s request, the agency sent him the Summary of Evidence, Administrative Disqualification Hearing Notice, and exhibits via e-mail. At the time of the rescheduled hearing, Respondent did not appear.

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

By: Megan Ryan

Respondent:

██████████
██████████
██████████

Did Not Appear

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez

Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # [REDACTED]) received duplicate nutrition assistance benefits from Wisconsin and Illinois from June 2023 through December 2024.
2. Respondent requested FoodShare benefits from the State of Wisconsin via applications and program renewals completed on the following dates: June 5, 2023, October 16, 2023, April 18, 2024, July 22, 2024, and October 8, 2024. Respondent inaccurately reported that he was not receiving SNAP in any other state on his June 2023 application, July 2024 application, and October 2024 application. He electronically signed those applications and thereby certified that he was providing truthful information.
3. Respondent received Supplemental Nutritional Assistance Program (SNAP) benefits from Illinois from June 2022 through January 2025. He also received Medicaid from Illinois from November 2019 through January 2025.
4. Respondent's Illinois SNAP and Wisconsin FS benefits were used to make purchases in both Illinois and Wisconsin.
5. On December 3, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that Mr. Calhoun provided false information "regarding receipt of other state SNAP benefits, in order to receive duplicated SNAP benefits." That notice advised Respondent that a hearing would occur via telephone on January 7, 2026.
6. On January 7, 2026, Respondent answered his phone when the administrative law judge called to initiate the hearing but, as detailed in the Preliminary Recitals, he asked that the hearing be rescheduled. That request was granted. Respondent reported that his then-current mailing address is [REDACTED] in Chicago, Illinois and provided an e-mail address. He asked that the agency provide him with its exhibits and other hearing-related correspondence to him via e-mail rather than U.S. mail.
7. On January 8, 2026, the petitioner issued another Administrative Disqualification Hearing Notice including the same allegations as the prior hearing notice and advising Respondent that the rescheduled hearing would occur via telephone on January 28, 2026 at 9:00 am. On January 13, 2026, the agency e-mailed Respondent its exhibits.
8. At the time of the rescheduled hearing on January 28, 2026, the administrative law judge called respondent at the same telephone where she had reached him previously but received a message indicating that his voice mail had not yet been set up.
9. Respondent failed to appear for the January 28, 2026 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., 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.

State statute provides that no person may misstate or conceal facts in a FS application or report of income, assets, or household circumstances with intent to secure or continue to receive FS program benefits. See Wis. Stat. §946.92(2)(a). The agency contended that Respondent committed an intentional program violation by inaccurately reporting to the State of Wisconsin that he was not receiving SNAP benefits from any other state on multiple occasions and that he received duplicate benefits from Wisconsin and Illinois from June 2023 through December 2024 as a result.

To support its contention, the agency provided copies of Respondent's FoodShare applications and renewals showing that he answered "no" when asked whether he was receiving nutrition assistance benefits in any other state, case notes relevant to those applications and renewals, FS / SNAP transaction logs and FS / SNAP issuance reports from both Illinois and Wisconsin showing duplicate issuance and demonstrating that both benefit cards were being consistently used, and e-mail correspondence with Illinois Department of Human Services' staff who confirmed Respondent's receipt of benefits from Illinois. The agency also provided exhibits showing that it sent Respondent written notice of the rules regarding intentional program violations.

Respondent did not appear at the hearing to refute or explain the agency's persuasive evidence. Based on the record before me, I find that the agency has met its burden and established that Respondent intentionally provided false information when he denied receiving SNAP in another state at the time he applied for FS in Wisconsin on multiple occasions, and that in doing so, he committed an intentional program violation.

CONCLUSIONS OF LAW

1. The respondent intentionally concealed or withheld information by failing to report that he was receiving SNAP benefits from another state when he applied for FS in Wisconsin; he thus violated Wis. Stat. §946.92(2)(a) and 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

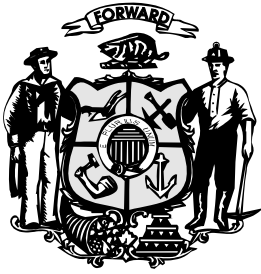
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in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

\sTeresa A. Perez
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
Megan Ryan - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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

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

