



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Brown County Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220888

Pursuant to petition filed November 20, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Brown County Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing by telephone was held on Tuesday, January 6, 2026, 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:

Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

Respondent:

██████████
██████████
██████████

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # [REDACTED]) is a resident of Brown County who received FS benefits in Brown County April 2024 through April 2025. She had also received FS benefits at various times between May 2013 and April 2024.
2. At all times relevant in this case, the respondent lived at [REDACTED].
3. The respondent was issued the Enrollment and Benefits Handbook on January 7, 2022; January 5, 2023; January 5, 2024; and April 25, 2024. 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.
4. On April 19, 2023, respondent called the agency to report the birth of a child. She did not report the father of the child as living in the home.
5. The agency was notified by Child Support Agency that the father ([REDACTED]) of the child was in the home. The FS agency pended the case for his employment verification, with a due date of November 22, 2023. Respondent's FS case closed on December 31, 2023, for failure to provide verification.
6. Respondent re-applied for FS on December 28, 2023 and February 28, 2024, reporting [REDACTED] in the home. The case remained closed for failure to provide employment verification.
7. On April 24, 2024, respondent reapplied for FS during a recorded telephone call. She reported [REDACTED] had moved out. His employment and associated income was therefore not included in her FS budget. She was found eligible and issued FS.
8. The agency contacted law enforcement to conduct an investigation into the composition of respondent's FS household. The investigation found that [REDACTED] had lived with respondent from May 2020 until approximately August 2024. This was based on the following:
 - On July 26, 2024, [REDACTED] signed a vehicle loan through [REDACTED]. He reported his address as [REDACTED] and that he had lived there for 4 years and 2 months.
 - On September 3, 2024, [REDACTED] reviewed [REDACTED]'s Wisconsin DOT records that provided an address of [REDACTED].
 - On September 24, 2024, [REDACTED] interviewed respondent's neighbor who lives at [REDACTED]. The neighbor reported [REDACTED] moved in when respondent purchased her home and he moved out a month prior.
 - On October 2, 2024, respondent provided a statement to [REDACTED] that indicated she purchased her home in May 2020, that [REDACTED] moved in at that time, and that [REDACTED] moved out a few months prior to her contact with the officer.
9. On November 25, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that respondent made a false or misleading statement or misrepresented or withheld facts. Specifically, that she falsely reported the father, [REDACTED], of her child as not residing in her home on April 24, 2024.
10. The respondent failed to appear for the scheduled January 6, 2026 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., 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.

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). FS applicants and recipients are required to accurately report household composition, income, and employment to the FS agency. Wis. Stat. § 946.92(2). They are also prohibited from misstating or concealing facts regarding household circumstances, such as employment and household composition, for purposes of securing or continuing FS benefits. *Id.* FS rules require that adult parents who are living together with their minor children be included in the same FS household, even if the parents are not married and do not purchase and prepare meals together. See, FS Handbook, 3.3.1.3 and 7 CFR 273.1(b)(1).

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 to receive FS. The record also indicates that during her April 2024 FS interview respondent provided the agency false information about her household composition. Specifically, reporting that [REDACTED], the father of her child, was not living with her. As a result, his income was not considered when determining her household’s FS eligibility. She would have known that he and his income needed to be included in her FS household based on her previously denied FS applications of December 28, 2023 and February 28, 2024. Those FS applications were denied due to a failure to provide [REDACTED]’s employment verification. The respondent did not appear at hearing to provide evidence or rebut the agency’s position that she had committed an intentional violation of the FS program.

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 7 C.F.R. § 273.16(c).

2. The agency properly seeks to disqualify Respondent from the FoodShare program for a period of one year pursuant to 7 C.F.R. §273.16(b)(1).

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

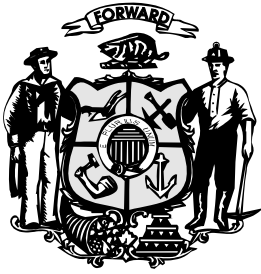
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in 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 8th day of January, 2026

\sJason M. Grace
Administrative Law Judge
Division of Hearings and Appeals

- c: Bay Lake Consortium - email
- Public Assistance Collection Unit - email
- Division of Health Care Access and Accountability - email
- Jamie Carlson - email



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The preceding decision was sent to the following parties on January 8, 2026.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability

