



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Dane County Dept. of Human Services, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 220960

Pursuant to a petition filed November 26, 2025, under 7 C.F.R. §273.16, to review a decision by the Dane County Dept. of Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of two years, a hearing was held on January 7, 2026, by telephone.

The issue for determination is whether the respondent committed an Intentional Program Violation (IPV).

PARTIES IN INTEREST:

Petitioner:

Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343
By: Monica Johnson

Respondent:

██████████ (Did not appear)

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of Dane County who received FS benefits in 2024 and 2025.
2. On January 15, 2025, the Division of Hearings and Appeals issued a decision upholding a first IPV sanction against the respondent for misrepresenting her income from ██████████. Thereafter the respondent received FS for her daughter as a one-person household because the respondent was sanctioned for one year.

3. On August 13, 2025, the respondent filed a new application for FS. She reported working for [REDACTED] making \$800 monthly. She submitted an “earnings statement” purportedly from [REDACTED] showing income totaling \$1,296 for two pay periods, with no stated deductions. Exhibit 20. She also failed to report that she also was working for [REDACTED], where she started on August 5, 2025. See Exhibit 16.
4. The “earnings statements” that the respondent filed were forgeries. Her actual income from [REDACTED] in August was \$2,704. See Exhibit 10, pages 68 and 69 of the agency’s submission.
5. The agency discovered the discrepancies in a November, 2025 wage match. It obtained actual income from [REDACTED] and [REDACTED], and FS closed effective January 1, 2026 because income was over the FS limit.
6. On December 4, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that the respondent falsified her income.
7. The respondent failed to appear for the scheduled January 7, 2026 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 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.

To establish that an FS recipient has committed an IPV, the petitioner 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.

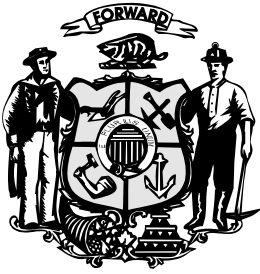
Further, the *McCormick* treatise states that “it has been persuasively suggested that [the clear and convincing evidence standard of proof] could be more simply and intelligibly translated to the jury if they were instructed that they must be persuaded that the truth of the contention is highly probable.” 2 *McCormick on Evidence* §340 (John W. Strong gen. ed., 4th ed. 1992).

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.

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.

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 second such violation committed by the respondent. A recipient is required to provide correct and truthful information in all applications and renewals. See 7 C.F.R. §273.2(b)(1)(i). Wis. Stat., §946.92(2)(a) provides that it is a violation of the FS program to make false or misleading statements to program officials. Since FS eligibility and allotments are based upon household income and expenses, it is vital to the program that income be reported accurately. See 7 C.F.R. §273.9.

The respondent lied about her income in her August, 2025 application, and she filed false earnings statements that later were contradicted by the employer’s actual income. Since the respondent had just been sanctioned a first time in January, 2025, for falsely reporting income, it would be hard to claim that she did not understand income reporting rules. Therefore the petitioner correctly seeks to disqualify the respondent from the FS program for two years.



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 15, 2026.

Dane Cty. Dept. of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability

