



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Wood County Human Services - WI Rapids, Petitioner

vs.

██████████, Respondent

DECISION

Case #: FOF - 221103

Pursuant to petition filed December 11, 2025, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Wood County Human Services - WI Rapids to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a telephone hearing was held on Tuesday, January 27, 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:

Wood County Human Services - WI Rapids
111 W Jackson St
Wisconsin Rapids, WI 54495

Respondent:

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

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. The respondent (CARES # ██████████) is a resident of Wood County who received FS benefits in Wood County at various times between April 2019 and October 2025.
2. The respondent was part of a household that received FS benefits.

3. An Enrollment and Benefits Handbook was issued to respondent's FS household on August 30, 2022 and April 15, 2024. The handbook set forth program rules and expectation. This included a warning that it was a violation of FS rules to provide false information or verification. It further warned that any member who intentionally breaks FS rules could be barred from the program for 12 months for a first violation.
4. A notice informing of receiving a One-Time FS Benefit was issued to respondent's FS household that contained a FS Penalty Warning. That warning indicated it was a violation of FS rules to give false information or hide information to get or continue to get benefits. It further warned that any member who intentionally breaks FS rules could be barred from the program for 12 months for a first violation.
5. Respondent was employed and received income from [REDACTED]. He was hired on April 3, 2023. He was paid every other week between April 21, 2023, and September 8, 2023.
6. On June 22, 2023, the respondent submitted an ACCESS FS renewal wherein he failed to report employment income with [REDACTED]. The renewal contained a FS Penalty Warning that indicated it was a violation of FS rules to give false information or hide information to get or continue to get benefits. It further warned that any member who intentionally breaks Fs rules could be barred from the program for 12 months for a first violation.
7. On June 30, 2023, he then participated in a telephone FS interview falsely reporting he was unemployed.
8. Respondent was employed and received income from [REDACTED]. He was hired on November 20, 2023. He was paid weekly between November 22, 2023 and September 12, 2024.
9. Respondent failed to report employment and associated income with [REDACTED] during a telephone FS Six Month Report on January 2, 2024 and telephone FS renewal on June 25, 2024. During the June 25, 2024 FS renewal he reported he was not working.
10. On December 16, 2025, the petitioner prepared an Administrative Disqualification Hearing Notice alleging that respondent committed an intentional violation of the FS program by making a false or misleading statement or misrepresenting or withhold facts. Specifically, that he failed to report employment income to the agency multiple different times.
11. The respondent failed to appear for the scheduled January 27, 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 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 income, for purposes of securing or continuing FS benefits. *Id.*

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 two different FS renewals he provided the agency false information about his employment status. This in turn resulted in the failure to disclose associated employment income. He did not appear at hearing to contest the agency's presentation of evidence, both as to the conduct alleged and that the program violation was intentional.

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 by misrepresenting and/or providing false information about employment status and associated income, 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

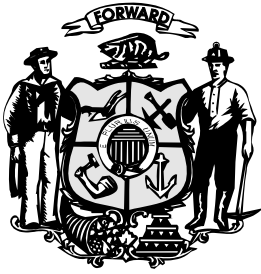
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., Madison, WI 53703, **and** on those identified in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

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

- c: Northern Consortium - email
- Public Assistance Collection Unit - email
- Division of Health Care Access and Accountability - email
- Leanna Becker - email



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

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability

