

STATE WAIVER REQUEST

1. **Type of request:** Initial
2. **Regulatory citation:** 7 CFR 271.2
3. **State:** Kansas
4. **Region:** MPRO
5. **Regulatory requirements:** 7 CFR 271.2 regulates eligible foods to mean:
 - (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption and any deposit fee in excess of the amount of the State fee reimbursement (if any) required to purchase any food or food product contained in a returnable bottle, can, or other container, regardless of whether the fee is included in the shelf price posted for the food or food product;
 - (2) Seeds and plants to grow foods for the personal consumption of eligible households;
 - (3) Meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP benefits to purchase delivered meals; or meals served by an authorized communal dining facility for the elderly, for SSI households or both, to households eligible to use SNAP benefits for communal dining;
 - (4) Meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to narcotic addicts or alcoholics and their children who live with them;
 - (5) Meals prepared and served by a group living arrangement facility to residents who are blind or disabled as defined in paragraphs (2) through (11) of the definition of “Elderly or disabled member” contained in this section;
 - (6) Meals prepared by and served by a shelter for battered women and children to its eligible residents;
 - (7) In the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing or shelter, nor firearms, ammunition or other explosives;
 - (8) In the case of homeless SNAP households, meals prepared for and served by an authorized public or private nonprofit establishment (e.g. soup kitchen, temporary shelter), approved by an appropriate State or local agency, that feeds homeless persons; and

(9) In the case of homeless SNAP households, meals prepared by a restaurant which contracts with an appropriate State agency to serve meals to homeless persons at concessional (low or reduced) prices.

- 6. Description of alternative procedures:** This waiver would allow DCF to exclude all candy and soda beverages (also known as soft drinks) from the definition of eligible foods under 7 CFR 271.2 for purchase with Supplemental Nutrition Assistance Program (SNAP) benefits.
- Candy is defined as a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces. Candy does not include any preparation containing flour and shall require no refrigeration.
 - Soft drink beverages are defined as nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes or beverages that are greater than 50% vegetable or fruit juice by volume.
- 7. Justification for request:** Kansas State Senate Bill 125 requires that the Secretary for the Department for Children and Families certify to the members of the State Finance Council that the Secretary has requested a waiver from the United States Department of Agriculture (USDA) to exclude candy and soft drinks from the definition of eligible foods under 7 C.F.R. § 271.2. This waiver request to USDA is necessary for the state agency to receive state funding approval for the expenditure of moneys from the summer EBT program account for the summer EBT program.

The purpose of waiver is test and understand how program changes in supplemental nutrition assistance program impact health outcomes including reducing obesity rates.

- 8. Caseload information, including percent, characteristics, and quality control error rate for affection portion (if applicable):**

Kansas SNAP Caseload: FY2024 averaged 93,191 cases.

Percent of caseload effected by waiver: 100%; the waiver request applies to all Kansas SNAP recipients.

Characteristics: FY 2024 averaged 103,594 adults and averaged 85,117 children.

Anticipated impact on households and State agency operations: Kansas planning and implementation design would include an assessment of operations to minimize any unintended negative effects to food retailers that accept SNAP benefits. Such assessment and planning would involve determining product eligibility, which is essential to avoid retailer confusion at point-of-sale and stigma for affected eligible SNAP beneficiaries. In addition, factors and implications of out of state purchases and border state retailer purchasing will be addressed. A statewide implementation team will need to be created for comprehensive planning and development to include consumers, retailers and other operations administrators, partners and stakeholders. A robust evaluation design will need to be developed to understand project impact on participation of retailers, consumer purchasing behavior changes and any changes in health outcomes. Additional resources or industry techniques may be needed to deploy to prevent fraud and abuse and protect small businesses in Kansas.

Nutrition education is an important part of the Kansas Food Assistance Program. Kansas will continue to work with the Kansas State University Extension Service to provide the Supplemental Nutrition Assistance Program Education (SNAP-Ed), including free classes on nutrition, cooking, physical activity, benefits of eating healthy, and how to purchase nutritious foods on a limited budget. Additional resources, expertise and partners may be engaged to educate consumers and retailers on the purchase restrictions. News releases in conjunction with social media will be used to educate the public on the change to SNAP eligible foods.

9. Anticipated implementation date and time period for which waiver is needed:

Due to the number of implementation factors required for readiness of a system across all sizes of retailer systems, implementation is estimated to be eighteen months after USDA approval has been received. Kansas requests that this waiver remain in place until there is an evaluation result reflecting health outcomes are not improved or consumer behavior is not changed, or federal guidance is developed for all states regarding restrictions on consumption of candy and sweetened soda beverages, whichever comes first.

10. Proposed quality control review procedures: No special QC procedures are required for this waiver. Cases are reviewed using standard review procedures contained in the FNS Handbook 310.

11. Name, title, and email of requesting official:

Name: Carla Whiteside-Hicks, Ph.D.
Title: Economic and Employment Services Director
Email: Carla.WhitesideHicks@ks.gov

Signature: 

12. Date of request: May 8, 2025

13. State agency staff contact:

Name: Sarah van Straaten
Email: Sarah.vanStraaten@ks.gov
Phone: 785-230-6301

Name: Elizabeth Ahumada
Email: Elizabeth.Ahumada@ks.gov
Phone: 785-600-8381

14. Regional office contact person (to be completed by FNS regional office):