



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: April 05, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010110 and AP000000012812

[REDACTED]

Dear [REDACTED],

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 7, 2016 enrollment confirmation notice and October 26, 2016 eligibility redetermination and enrollment confirmation notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 05, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010110 and AP000000012812

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your family's enrollment in a health plan was effective July 1, 2016?

Did NY State of Health properly terminate your family's health plan coverage, effective September 30, 2016, because of non-payment of premiums?

Did NY State of Health properly determine that your family's enrollment in health coverage was next effective December 1, 2016?

## Procedural History

On January 15, 2016, NYSOH issued a notice, based on your January 14, 2016 updated application, stating that more information was needed, specifically, income documentation for your family by January 30, 2016, to determine your family's eligibility for financial assistance.

Also on January 15, 2016, NYSOH issued a disenrollment notice stating your family's insurance would terminate effective January 31, 2016.

On January 22, 2016, you submitted proof of income to NYSOH, which was validated on January 26, 2016 (see Document [REDACTED]).

On January 27, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible to enroll in the Essential Plan (EP) with a premium of \$20.00 per month each, effective March 1, 2016; and your children were eligible to enroll in Child Health Plus (CHP) with a premium of \$9.00 per month each, effective March 1, 2016. That notice also stated that your family must pick health plans and that you will receive confirmation once done.

On June 7, 2016, NYSOH issued an enrollment confirmation notice, based on your family's June 6, 2016 plan selections, confirming that you and your spouse were enrolled in an EP with a monthly premium of \$20.00 each, effective July 1, 2016; and your children were enrolled in a CHP plan with a total monthly premium of \$18.00, effective July 1, 2016. That notice also stated you must pay the monthly premiums to start and keep your family's coverage.

On October 12, 2016, NYSOH issued a disenrollment notice stating your children's insurance with their CHP plan was terminated effective September 30, 2016, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly if you believed you made their premium payment(s) within the required timeframe.

On October 20, 2016, NYSOH issued disenrollment notices stating respectively that your and your spouse's insurance with your EP was terminated effective September 30, 2016, because a premium payment had not been received by the health plan. That notices directed you and your spouse to contact your plan directly if you believed you made your premium payment(s) within the required timeframe.

On October 25, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility redetermination was made finding you and your spouse eligible to enroll in the EP, effective December 1, 2016; and your children eligible to enroll in a CHP plan, effective December 1, 2016.

Also on October 25, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility redetermination insofar as your and your spouse's EP started on December 1, 2016, and not October 1, 2016; and your children's CHP plan started on December 1, 2016, and not October 1, 2016.

On October 26, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in an EP with a monthly premium of \$20.00 each, effective December 1, 2016; and your children were enrolled in a CHP plan with a total monthly premium of \$18.00 per month, effective December 1, 2016. That notice also stated you must pay your monthly premium to start and keep your family's coverage.

On February 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was kept open until February 22, 2016 for you to submit proof of premium payments for the months of June 2016 through October 2016. The Appeals Unit received a ten-page facsimile from you on February 7, 2016, which was made part of the record as "Appellant's Exhibit A." The record is now closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You submitted an updated application to NYSOH for financial assistance on January 14, 2016.
- 2) Per your telephone recording of January 22, 2016, you spoke to NYSOH regarding your spouse's proof of income and were advised that you should call back the following week to see if they had been validated. You stated that you would return that telephone call on January 25, 2016. Per Call Record [REDACTED], there were no telephone calls from January 23, 2016 through May 30, 2016 placed by you to NYSOH.
- 3) You testified that, although you received the January 27, 2016 eligibility redetermination notice regarding your family, you called NYSOH and spoke to a representative, who advised you that there was nothing more for you to do. You believed that your family was enrolled in health coverage at that time.
- 4) You testified that you were notified by the school that your children did not have health coverage, so you contacted NYSOH and your health plan. You further testified you were advised at that time that you never selected a plan.
- 5) On June 7, 2016, NYSOH issued an enrollment confirmation notice confirming your family members were enrolled in health plans, effective July 1, 2016. That notice further stated you must pay your monthly premiums to start and keep your coverages.
- 6) You testified that in September 2016, you had personal issues and did not make any premium payments that month.
- 7) You further testified that you made all your premium payments in advance and because of that your family's coverage should not have been dropped for non-payment of premium.

- 8) You testified that the health plan has a contractual obligation to give you a one-month grace period for your premium payments.
- 9) On February 7, 2017, you submitted into evidence credit card statements showing the following payments made to Healthfirst, your EP and CHP plan provider:
  - a) Payment of \$20.00 made on June 25, 2016;
  - b) Payment of \$18.00 made on June 25, 2016;
  - c) Payment of \$20.00 made on August 4, 2016;
  - d) Payment of \$20.00 made on August 4, 2016;
  - e) Payment of \$18.00 made on August 4, 2016;
  - f) Payment of \$40.00 made on October 22, 2016;
  - g) Payment of \$40.00 made on October 22, 2016; and
  - h) Payment of \$36.00 made on October 22, 2016.

(see Appellant's Exhibit A).

- 10) You testified that you believe these credit card statements reflect all your payments made in the entire 2016 insurance year.
- 11) On October 12, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan was terminated effective September 30, 2016 because of non-payment of premiums.
- 12) On October 20, 2016, NYSOH issued two disenrollment notices stating that your and your spouse's enrollment in your EP was terminated effective September 30, 2016 because of non-payment of premiums.
- 13) You testified that you found out your family was terminated from their health coverage for non-payment of premiums after receiving the disenrollment notices from NYSOH.
- 14) You testified that you called the health plan and they denied reinstatement of your family's coverage and advised you to contact NYSOH.
- 15) You testified that you wanted your family's enrollment in health coverage to begin on March 1, 2016 and October 1, 2016, respectively, because you were concerned about tax penalties for not having insurance coverage for several months in 2016. You have no medical bills.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

### Essential Plan Effective Date

For individuals seeking enrollment in an EP, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an EP is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); *see also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### Child Health Plus

The “period of eligibility” for CHP is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid, or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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The State of New York has provided that a child's period of eligibility for CHP begins on the first day of the month during which a child is eligible. The State of New York will furnish benefits by the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that your family's enrollment in the plans you selected were effective July 1, 2016.

You testified, and according to your NYSOH account, you updated your NYSOH application on January 14, 2016. As a result, you and your spouse were found eligible for the EP as of March 1, 2016 and your children were found eligible for CHP as of March 1, 2016. According to your NYSOH account, you did not enroll your family in a health plan until June 6, 2016, which ordinarily would result in a July 1, 2016 enrollment start date in the EP and CHP plans you selected.

You testified that, although you received the January 27, 2016 eligibility redetermination notice, you called NYSOH and spoke to a representative who advised you that there was nothing more for you to do. You testified that you believed this meant that your family was enrolled in health coverage at that time. You further testified that you did not realize your family had no coverage until you were notified by the school that your children did not have health coverage, and you contacted NYSOH and your health plan.

However, contrary to your testimony, your telephone call record of January 22, 2016 reflects that you were advised to call back to make sure that your proof of income had been validated by NYSOH. Moreover, there is no record of any telephone calls being made by you to NYSOH after the January 22, 2016 telephone call, or any time prior to your updating of your application in June 2016 (see [REDACTED]). Nor is there any evidence in the record to support that you selected health plans or paid premiums for your family's coverages in their respective health plans to begin March 1, 2016.

Since you testified that you did receive the January 27, 2016 eligibility redetermination notice, which states in part that you must select a health plan for your family, it is reasonable to conclude that NYSOH properly notified you of your need to select a health plan for your family to ensure enrollment in a health plan for a March 1, 2016 start date.



According to your NYSOH account, you selected your family's health plans for 2016 on June 6, 2016, and enrolled you and your spouse into an EP and your children into a CHP plan that day.

The date on which an EP and CHP plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month. Since you selected an EP and a CHP plan for your family on June 6, 2016 it must take effect on the first day of the following month; that is, on July 1, 2016.

Therefore, NYSOH's June 7, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED because they properly began your family's enrollment in EP and CHP on July 1, 2016.

The second issue is whether NYSOH properly terminated your family's health coverage, effective September 30, 2016, because of non-payment of premiums.

On January 27, 2016, NYSOH issued an eligibility determination notice, based on your January 14, 2016 initial application, stating that you and your spouse were eligible to enroll in the EP with a premium of \$20.00 per month each, effective March 1, 2016. That notice also stated that your children were eligible to enroll a CHP plan with a premium of \$9.00 per month each, effective March 1, 2016.

Also on June 7, 2016, NYSOH issued an enrollment notice stating that you and your spouse were enrolled in an EP with a monthly premium of \$20.00 each, effective July 1, 2016; and your children were enrolled in a CHP plan with a total monthly premium of \$18.00. That notice also stated you must pay your monthly premium to start and keep your coverage.

You testified that, in September 2016, you had personal issues and didn't make a payment that month. However, you made all of your premium payments in advance and because of that your family's coverage should not have been dropped for non-payment of premium. On February 7, 2017, you submitted into evidence credit card statements showing that you made your initial payments on June 25, 2016 for July 2016 of \$20.00 for your coverage and \$18.00 for your children's coverage. You made additional payments on August 4, 2016 for August 2016 coverage. This is inconsistent with your statement that you paid your premiums in advance. You did, however, submit proof of a payments of \$40.00, \$40.00 and \$36.00 made on October 22, 2016 (see Appellant's Exhibit "A").

Therefore, the record indicates that you did in fact make the July 2016 and August 2016 payment and it was accepted by your health plan. However, since

you did not timely make your premium payments for September 2016 until October 22, 2016, it resulted in a termination of your family's health coverage effective September 30, 2016. You testified that, when you contacted your health plan, they denied you reinstatement in your family's health coverage and advised you to contact NYSOH. You believe that the health plan has a contractual obligation to give you a one-month grace period for your premium payments.

However, the New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review disenrollment issues due to non-payment of premiums or matters that are contractual in nature, such as your contention that your health plans had a contractual obligation to give you a one-month grace period to pay premiums, we cannot reach the merits as to whether your family was properly terminated your family from their health plans for non-payment of premiums or whether your respective health plans were contractually obligated to give you a one month grace period to pay premiums.

Therefore, your appeal of your EP and CHP disenrollments, effective September 30, 2016, is DISMISSED as a non-appealable issue.

The remaining issue under review is whether NYSOH properly determined that your family's enrollment in health coverage was next effective December 1, 2016.

According to your NYSOH account and your testimony, you updated your NYSOH application on October 25, 2016. As a result, you and your spouse were found eligible for the EP as of December 1, 2016; and your children were found eligible for CHP as of December 1, 2016. You enrolled yourself and your family into the EP and CHP that day.

The date on which enrollment in an EP and a CHP plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On October 25, 2016, you completed your application for health insurance and selected EP and CHP, so your family's respective enrollment properly took effect

on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 26, 2016 enrollment confirmation notice stating that your and your spouse's enrollment in an EP was effective December 1, 2016 and your children's CHP enrollment was effective December 1, 2016., is correct and must be AFFIRMED.

## **Decision**

The June 7, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

Your appeal of your family's disenrollments from their respective health plans for non-payment of premium and the health plan's contractual obligations are DISMISSED as non-appealable issues.

The October 26, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** April 05, 2017

## **How this Decision Affects Your Eligibility**

This decision does not change your family's eligibility.

The initial effective date of your family's health coverages in EP and CHP was July 1, 2016.

NYSOH's Appeals Unit does not have the authority to review whether your family members were properly disenrolled, effective September 30, 2016, for non-payment of your EP and CHP premiums. Nor does it have the authority to review contractual issues between you and the health plans.

Your family's enrollments in their respective health plans, EP and CHP, next took effect December 1, 2016.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The June 7, 2016 eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

Your appeal of your family's disenrollments from their respective health plans for non-payment of premium and the health plan's contractual obligations are **DISMISSED** as non-appealable issues.

The October 26, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your family's eligibility.

The initial effective date of your family's health coverages in EP and CHP was July 1, 2016.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

NYSOH's Appeals Unit does not have the authority to review whether your family members were properly disenrolled, effective September 30, 2016, for non-payment of your EP and CHP premiums. Nor does it have the authority to review contractual issues between you and the health plans.

Your family's enrollments in their respective health plans, EP and CHP, next took effect December 1, 2016.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**



## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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