



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

Notice of Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014387

[REDACTED]

Dear [REDACTED],

On March 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2016 eligibility redetermination and plan disenrollment notices and the December 24, 2016 eligibility determination and plan disenrollment 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: May 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014387



Issues

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

Did NY State of Health properly determine that your child's eligibility for and enrollment in Child Health Plus terminated effective December 31, 2016?

Did NY State of Health properly determine that your child's eligibility for and enrollment in Child Health Plus next terminated effective February 28, 2017?

Procedural History

On September 14, 2016, your child was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On September 15, 2016, NYSOH issued an eligibility redetermination notice stating in part that your child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 per month premium effective October 1, 2016. The notice requested that you provide documentation confirming her citizenship status and social security number before December 13, 2016.

Also on September 15, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective October 1, 2016.

No updates were made to your NYSOH account by December 13, 2016.

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On December 20, 2016, NYSOH issued an eligibility redetermination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on December 20, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end effective December 31, 2016, because she was no longer eligible to enroll in health insurance through NYSOH.

On December 23, 2016, your child's Social Security number was added to your NYSOH account.

On December 24, 2016, NYSOH issued an eligibility redetermination notice stating in relevant part, that your child was conditionally eligible to enroll in CHP with a \$15.00 per month premium, effective February 1, 2017. The notice requested that you provide documentation confirming proof of income by February 21, 2017.

Also on December 24, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a CHP plan effective February 1, 2016.

On December 28, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her CHP plan and reenrollment which resulted in a gap in child's CHP coverage for the month of January 2017.

On February 14, 2017, NYSOH issued an eligibility redetermination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost because notices sent by NYSOH to you about your child's eligibility and coverage by U.S. mail to the mailing address provided in your account had been returned to NYSOH as undeliverable.

On February 15, 2017, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end effective February 28, 2017, because she was no longer eligible to enroll in health insurance through NYSOH.

On February 21, 2017, you spoke with NYSOH Account Review Unit about your child's disenrollment from her CHP plan for the month of March 2017.

On February 23, 2017, NYSOH issued an eligibility redetermination notice stating in part that your child was eligible to enroll in CHP with a \$15.00 per month premium, effective April 1, 2017.

Also on February 23, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a CHP plan effective April 1, 2017.

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On March 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During that hearing, your attorney participated but did not testify. The record was developed during the hearing and closed at the end of the hearing.

At that hearing you testified that when you spoke to the Account Review Unit on February 21, 2017, you were told that you did not need to file an appeal on the gap of your child's CHP plan for the month of March 2017 as you had a hearing coming up on the first issue and that both matters could be heard at the same time. The Hearing Officer agreed to take your testimony on both issues in the interest of administrative efficiency. You stated that you would waive any notice requirements on the second issue.

The Hearing Officer reviewed the Evidence Packet that was uploaded to your account on February 27, 2017. This Evidence Packet does include all notices and material relative to both issues. Therefore, the Hearing Officer agreed to amend your appeal to include both gaps in your child's CHP coverage for the months of January 2017 and March 2017.

Findings of Fact

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

- 1) You testified that you are only appealing your child's disenrollment from her CHP plan for the months of January 2017 and March 2017.
- 2) According to your NYSOH account and your testimony, you receive all your notices from NYSOH by regular mail.
- 3) You testified that your mailing address has remained the same at all relevant times.
- 4) According to your NYSOH account and your testimony, your child was born on [REDACTED].
- 5) The record indicates that your child was added to your NYSOH account on September 14, 2016. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a social security number because you were in the process of applying for one.
- 6) You testified that you did not receive the September 15, 2016, notice stating that your child's eligibility was conditional and that you needed

to submit proof of citizenship status and social security number by December 13, 2016.

- 7) You testified that you did receive the December 20, 2016 notice stating that your child was no longer eligible for health insurance through NYSOH effective January 1, 2017 because you had not provided proof of her citizenship status and social security number.
- 8) You testified that due to religious observance you were not able to contact NYSOH until December 23, 2016 at which time you added your child's social security number and re-enrolled her in a CHP plan effective February 1, 2017.
- 9) According to your NYSOH account, the December 20, 2016 notice stating your child's coverage with her CHP plan would end on December 31, 2016 was returned to NYSOH by the post office marked as "RETURN TO SENDER. NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD". NYSOH marked this notice as "RETURNED MAIL" on December 28, 2016 and uploaded to your account on February 13, 2017 [REDACTED]
- 10) You testified that the address on this returned mail document was correct and you have no idea why the post office was unable to deliver it, especially since you did receive the other notice mailed the same date.
- 11) You testified that subsequent notices mailed to you by NYSOH at the same address have been delivered without problem.
- 12) According to your NYSOH account events tab, your mailing address was marked as "invalid" on February 13, 2017 and your child's eligibility was re-run by the system at that time. This resulted in your child being redetermined no longer eligible for health insurance through NYSOH because a notice about her eligibility or coverage had been returned by the post office as undeliverable.
- 13) According to your NYSOH account and your testimony, on February 17, 2017, you contacted NYSOH and verified your mailing address. At that time, you re-enrolled your child into her CHP plan, effective April 1, 2017.
- 14) You testified that your child had necessary doctor visits and vaccinations in the month of January 2017 and, therefore, need coverage for that month.

- 15) You testified that while your child did not have medical bills incurred during the month of March 2017, you do not want her to have a gap in coverage for that month and you are willing to pay for her coverage that month.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

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If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on 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).

State Residence

Individuals are ineligible for medical assistance unless he or she is a resident of NY State (NY SSL § 366(d)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP terminated effective December 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their social security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or social security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your child was added to your NYSOH account on September 14, 2016. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a social security number because you were in the process of applying for one.

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In the eligibility determination issued on September 15, 2016, you were advised that your child's eligibility for CHP was only conditional, and that you needed to confirm her social security number and citizenship status before December 13, 2016. No updates to your account in this regard were made by that deadline.

On December 20, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end effective December 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on that day, this was because NYSOH did not receive documentation of her citizenship status and social security number by the deadline.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent can take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from her CHP plan was dated December 20, 2016. Therefore, the notice terminating your child's CHP enrollment would be considered received as of December 25, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's CHP eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until February 1, 2017.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child for the month of January 2017 and the December 20, 2016 eligibility determination and disenrollment notices are **RESCINDED**. Likewise, the December 24, 2016 eligibility redetermination and plan enrollment notices must be **MODIFIED** to state your child's eligibility for CHP and enrollment in a CHP plan are both effective January 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your child in her CHP plan effective January 1, 2017.

The second issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP next terminated effective February 28, 2017.

On December 23, 2016, you updated your account and re-enrolled your child in her CHP plan effective February 1, 2017.

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).

For reasons not known to you and which do not appear to be your fault, the post office returned one of two notices dated December 20, 2016 to NYSOH. This notice was stamped "Returned Mail" by NYSOH on December 28, 2016 and uploaded to your account on February 13, 2017.

As a result of receiving the returned notice, NYSOH marked your address as invalid on February 13, 2017 and, as such, your child's state residency was deemed no longer valid.

This change in residency status also resulted in NYSOH's system re-running your child's eligibility and, on February 14, 2017, issued an eligibility redetermination notice stating your child was no longer eligible for health insurance through NYSOH because notices sent by NYSOH to you about your child's eligibility and coverage by U.S. mail to the mailing address provided in your account had been returned to NYSOH as undeliverable.

You credibly testified that the address listed on the December 20, 2016 notice that was returned was correct. You further testified that the other notice dated December 20, 2016, as well as subsequent notices mailed to that same address have been delivered by the post office.

Therefore, it is reasonable to conclude that the December 20, 2016 notice that was returned was correctly addressed and that it was returned to NYSOH by the post office due to no fault of your own. It is also reasonable to conclude that your child was disenrolled from her CHP plan due to this error.

Therefore, the February 14, 2017 eligibility redetermination notice and the February 15, 2017 disenrollment notice are **RESCINDED**. Likewise, the February 23, 2017 eligibility redetermination and plan enrollment notices are **MODIFIED** to state your child's eligibility for CHP and enrollment in a CHP plan are both effective March 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your child in her CHP plan effective March 1, 2017.

Decision

The December 20, 2016 eligibility redetermination and disenrollment notices are **RESCINDED**.

The December 24, 2016 eligibility redetermination and plan enrollment notices must be **MODIFIED** to state your child's eligibility for CHP and enrollment in a CHP plan are both effective January 1, 2017.

The February 14, 2017 eligibility redetermination notice and the February 15, 2017 disenrollment notices are RESCINDED.

The February 23, 2017 eligibility redetermination and plan enrollment notices are MODIFIED to state your child's eligibility for CHP and enrollment in a CHP plan are both effective March 1, 2017.

Your case is RETURNED to NYSOH to reinstate your child into her CHP plan for the months of January 2017 and March 2017 and to notify you accordingly.

Effective Date of this Decision: May 10, 2017

How this Decision Affects Your Eligibility

Since it is determined that NYSOH did not provide you with sufficient notice to allow you to take action to prevent a gap in your child's coverage for the month of January 2017, she should not have been terminated from her CHP plan in January 2017 for failure to submit proof of her citizenship status and social security number.

Your child should not have been disenrolled from her CHP plan as of February 28, 2017 because, through no fault of your own, a notice were incorrectly returned by the post office to NYSOH marked as undeliverable resulting in her second disenrollment.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the months of January 2017 and March 2017.

Your child's CHP coverage, which began on October 1, 2016, continues until September 30, 2017, barring subsequent changes in her eligibility.

You will be responsible for paying the monthly premium for January 2017 and March 2017 to the CHP plan, if applicable.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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

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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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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

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).

The December 20, 2016 eligibility redetermination and disenrollment notices are RESCINDED.

The December 24, 2016 eligibility redetermination and plan enrollment notices must be MODIFIED to state your child's eligibility for CHP and enrollment in a CHP plan are both effective January 1, 2017.

The February 14, 2017 eligibility redetermination notice and the February 15, 2017 disenrollment notices are RESCINDED.

The February 23, 2017 eligibility redetermination and plan enrollment notices are MODIFIED to state your child's eligibility for CHP and enrollment in a CHP plan are both effective March 1, 2017.

Your case is RETURNED to NYSOH to reinstate your child into her CHP plan for the months of January 2017 and March 2017 and to notify you accordingly.

Since it is determined that NYSOH did not provide you with sufficient notice to allow you to take action to prevent a gap in your child's coverage for the month of January 2017, she should not have been terminated from her CHP plan in January 2017 for failure to submit proof of her citizenship status and social security number.

Your child should not have been disenrolled from her CHP plan as of February 28, 2017 because, through no fault of your own, a notice was incorrectly returned by the post office to NYSOH marked as undeliverable resulting in her second disenrollment.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the months of January 2017 and March 2017.

Your child's CHP coverage, which began on October 1, 2016, continues until September 30, 2017, barring subsequent changes in her eligibility.

You will be responsible for paying the monthly premium for January 2017 and March 2017 to the CHP plan, if applicable.

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 okyerε 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)

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