



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

Notice of Decision

Decision Date: May 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015578



Dear [REDACTED]

On April 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2017 eligibility determination, and 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 NY State of Health 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 25, 2017

NY State of Health Account ID: [REDACTED]
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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 spouse's eligibility for financial assistance and enrollment in her platinum level qualified health ended effective January 31, 2017?

Did NY State of Health properly determine that your three children's eligibility for and enrollment in Child Health Plus terminated effective January 31, 2017?

Procedural History

On September 30, 2016, NY State of Health (NYSOH) received your household's updated application for financial assistance.

On October 8, 2016, NYSOH issued an eligibility determination notice based on your last application. The notice stated you and your spouse were conditionally eligible for Medicaid effective September 1, 2016. The notice stated your two children remained eligible for Medicaid effective October 1, 2016. The notice also stated your youngest child was conditionally eligible for Medicaid effective October 1, 2016. The notice requested you to provide proof of your third-party health insurance by October 15, 2016. The notice requested your spouse and youngest child provide proof of their Citizenship Status by December 29, 2016.

On October 14, 2016, NYSOH issued a notice stating you were eligible for up to \$0.00 per month in advance payments of the premium tax credit, and your

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spouse was conditionally eligible for up to \$0.00 per month in advance payments of the premium tax credit, effective November 1, 2016. Your two children were found eligible for Child Health Plus for a cost of \$60.00 per month effective November 1, 2016. The notice stated your youngest child was conditionally eligible for Child Health Plus for a cost of \$60.00 per month effective November 1, 2016. The notice stated you would need to provide proof of your spouse and youngest child's Citizenship Status by December 29, 2016.

On October 15, 2016, an enrollment notice was issued stating you and your spouse were enrolled in a platinum level health plan effective November 1, 2016, and your three children were enrolled in a Child Health Plus plan starting November 1, 2016.

No documentation was received by NYSOH by December 29, 2016.

On January 5, 2017, NYSOH issued an eligibility determination notice stating that your spouse and your youngest child were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. They also could not enroll in a qualified health plan at full cost because you had not confirmed their citizenship status within the required timeframe. Their eligibility for coverage ended effective February 1, 2017.

Also on January 5, 2017, NYSOH issued a disenrollment notice stating your children's Child Health Plus plan would end January 31, 2017. The notice also stated your spouse's enrollment in her platinum qualified health plan would end January 31, 2017.

On February 2, 2016, your spouse and your child's immigration documentation were received.

On February 2, 2017, an eligibility determination notice was issued based on your updated application on February 1, 2017. The notice stated you and your spouse were eligible to receive an advance premium tax credit of up to \$19.00 per month effective March 1, 2017, but that you did not qualify to select a health plan outside of the open enrollment period for 2017. The notice also stated your two children were eligible and your youngest child was conditionally eligible for Child Health Plus for a cost of \$60.00 per month effective March 1, 2017. The notice asked you to provide proof of your spouse and your youngest child's Citizenship Status by May 2, 2017. The notice also asked for proof of your youngest child's Social Security number by May 2, 2017.

Also on February 2, 2017, an enrollment confirmation notice was issued confirming your and your spouse's enrollment in a platinum level qualified health plan starting January 1, 2017. The notice also confirmed your three children's enrollment in a Child Health Plus plan starting March 1, 2017.

On February 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your spouse's financial assistance eligibility and enrollment in a qualified health plan and your three youngest children's enrollment in a Child Health Plus plan effective January 31, 2017.

On April 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide additional documentation.

On May 5, 2017, NYSOH received your documentation in the form of a six-page fax and has been incorporated into the record as (Appellant's Exhibit 1). The record is now closed.

Findings of Fact

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

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified you have not moved in the last year.
- 3) You testified that you did not receive any notices stating that your child and your spouse's eligibility was only conditional and that you needed to provide documentation of their citizenship status.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) The record shows the October 14, 2016 eligibility determination notice requesting you to provide proof of your spouse and youngest child's Citizenship Status was addressed to you current and correct address.
- 6) The record reflects that on February 2, 2016, NYSOH received documentation of your spouse and youngest child's citizenship status.
- 7) You testified that you are seeking your spouse's reinstatement in her qualified health plan and your youngest child's Child Health Plus plan for the months of February, 2017.
- 8) The record shows the application that was submitted on September 30, 2016 indicates that your spouse and your youngest child are U.S Citizens.
- 9) You testified your child is adopted and is a lawful permanent resident.

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- 10) You testified your spouse is a lawful permanent resident and is in the process of applying for a renewal of her status.
- 11) The record shows the first time you provided NYSOH documentation of your spouse and youngest child's Citizenship Status was on February 6, 2017.
- 12) The record supports on February 6, 2017, you uploaded a copy of your youngest child's Certificate of Birth Data from New York State Department of Health Vital Records Section. The form states this certificate is not proof of United States Citizenship. See Document [REDACTED]
- 13) The record supports on February 6, 2017, you uploaded a copy of your spouse's Lawful Permanent Resident Card. The card has an expiration date of October 20, 2014. See Document [REDACTED]
- 14) The documentation you submitted in response to the Hearing Officer's request contained the same copy of your spouse's Lawful Permanent Resident Card, and a copy of your youngest child's Lawful Permanent Resident Card with an expiration date of January 20, 2021. See (Appellant's Exhibit 1, pgs. 5-6).
- 15) You reside in Suffolk County, NY.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. 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)).

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)).

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)).

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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse's eligibility for financial assistance and enrollment in her platinum level qualified health ended effective January 31, 2017.

The record indicates that the application that was submitted on September 30, 2016 indicates your spouse is a U.S. citizen.

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

If NYSOH cannot verify an individual's citizenship status, 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. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

You testified you receive all your notices from NYSOH via U.S. regular mail and have not moved in the last year.

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In the eligibility determination issued on October 8, and again October 14, 2016, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm her citizenship status before December 29, 2016.

However, 90 days from the October 15, 2016 notice after considering a five-day period to receive the notice would be by January 17, 2017.

The record reflects that NYSOH did not receive the requested citizenship documentation before the deadline of December 29, 2016, or January 17, 2017.

Therefore, NYSOH properly notified you of an inconsistency in your account and you did not submit the requested citizenship documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the 90-day period, NYSOH was required to redetermine your spouse's eligibility without verification of her citizenship status. As a result, NYSOH properly determined that she could not enroll in a qualified health plan through NY State of Health effective January 31, 2017 because she did not provide the information requested by NYSOH.

Therefore, NYSOH's January 5, 2017 eligibility determination notice stating in part that your spouse was no longer eligible to purchase a qualified health plan and receive advance premium tax credits effective January 31, 2017 was correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in their Child Health Plus plan terminated effective January 31, 2017.

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 the application that was submitted on September 30, 2016 indicates your youngest child is a U.S. Citizen.

In the eligibility determination issued on October 14, 2016, you were advised that your youngest child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his citizenship status before December 29, 2016. As discussed above, 90 days from receipt of that notice would be by January 17, 2017.

No documentation was received by NYSOH by January 17, 2017.

On January 5, 2017, NYSOH issued an eligibility determination notice stating your youngest child's eligibility for Child Health Plus would end January 31, 2017, because he 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 his citizenship status.

As discussed above, the notice issued to you by NYSOH was issued properly and it is determined you received sufficient notice to update the information in your NYSOH account for your youngest child.

Therefore, the January 5, 2017 eligibility determination notice finding your youngest child no longer eligible for Child Health Plus effective January 31, 2017 was proper and is AFFIRMED.

Also on January 5, 2017 a disenrollment notice was issued stating that all three of your children would be terminated from their Child Health Plus plan effective January 31, 2017.

However, since NYSOH was not requesting you to provide citizenship documentation for your two older children, the January 5, 2017, disenrollment notice terminating their Child Health Plus plan January 31, 2017 was improper and is MODIFIED in that respect.

Your case is RETURNED to NYSOH to ensure your two older children are enrolled in their Child Health Plus plan for the month of February, 2017.

NYSOH is further directed to review the immigration documentation for your spouse and youngest child that you submitted. The documentation consists of those you uploaded to your NYSOH account and the additional immigration documentation you provided after your hearing in (Appellant's Exhibit 1).

Decision

The January 5, 2017, eligibility determination notice stating in part that your spouse was no longer eligible to purchase a qualified health plan and receive advance premium tax credits effective January 31, 2017 was correct and is AFFIRMED.

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 January 5, 2017, eligibility determination notice finding your youngest child no longer eligible for Child Health Plus effective January 31, 2017 was proper and is **AFFIRMED**.

The January 5, 2017, disenrollment notice terminating your two older children's enrollment in their Child Health Plus plan effective January 31, 2017 is **MODIFIED** to state that they continued to be enrolled in their Child Health Plus plan.

Your case is **RETURNED** to NYSOH to reinstate your two older children into their Child Health Plus plan for the month of February, 2017.

NYSOH is further directed to review the immigration documentation for your spouse and youngest child that you submitted. The documentation consists of those you uploaded to your NYSOH account and the additional immigration documentation you provided after your hearing in (Appellant's Exhibit 1).

Effective Date of this Decision: May 25, 2017

How this Decision Affects Your Eligibility

NYSOH properly found your spouse not eligible to enroll in a qualified health plan effective January 31, 2017.

NYSOH properly determined your child was no longer eligible for Child Health Plus, effective January 31, 2017.

Your two older children should not have been terminated from their Child Health Plus plan effective January 31, 2017.

Your case is being sent back to NYSOH to reinstate your two older children into their Child Health Plus for the month of February, 2017.

Your case is also being sent back to NYSOH to review the immigration documentation you submitted after your hearing.

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.

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 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 January 5, 2017, eligibility determination notice stating in part that your spouse was no longer eligible to purchase a qualified health plan and receive advance premium tax credits effective January 31, 2017 was correct and is AFFIRMED.

The January 5, 2017, eligibility determination notice finding your youngest child no longer eligible for Child Health Plus effective January 31, 2017 was proper and is AFFIRMED.

The January 5, 2017, disenrollment notice terminating your two older children's enrollment in their Child Health Plus plan effective January 31, 2017 is MODIFIED to state that they continued to be enrolled in their Child Health Plus plan.

Your case is RETURNED to NYSOH to reinstate your two older children into their Child Health Plus plan for the month of February, 2017.

NYSOH is further directed to review the immigration documentation for your spouse and youngest child that you submitted. The documentation consists of those you uploaded to your NYSOH account and the additional immigration documentation you provided after your hearing in (Appellant's Exhibit 1).

NYSOH properly found your spouse not eligible to enroll in a qualified health plan effective January 31, 2017.

NYSOH properly determined your child was no longer eligible for Child Health Plus, effective January 31, 2017.

Your two older children should not have been terminated from their Child Health Plus plan effective January 31, 2017.

Your case is being sent back to NYSOH to reinstate your two older children into their Child Health Plus for the month of February, 2017.

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।

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).

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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