



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

## Notice of Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016699

[REDACTED]

Dear [REDACTED],

On June 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 9, 2017 eligibility determination notice.

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

## Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016699



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective April 1, 2017?

## Procedural History

On December 2, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. Also on December 2, 2016, you uploaded one document to your NYSOH account.

On December 4, 2017, NYSOH issued a notice stating that the income information you entered into your application does not match what NYSOH received from state and federal data sources. This notice also directed you to submit income documentation by December 17, 2016 in order to determine your eligible for financial assistance with health insurance.

On December 9, 2016, you uploaded four documents to your NYSOH account.

On December 19, 2016, NYSOH invalidated the income documentation you uploaded to your NYSOH on December 2, 2016 and December 9, 2016.

On December 20, 2016, NYSOH issued a notice stating that the documentation you had uploaded did not confirm the information in your application. This notice

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further directed you to submit additional income documentation by January 16, 2017.

On December 21, 2016, you uploaded twelve documents to your NYSOH account.

On December 28, 2016, NYSOH verified and invalidated the income documentation you uploaded to your account on December 21, 2016.

On December 29, 2016, NYSOH issued a notice stating that the documentation you had uploaded did not confirm the information in your application. This notice further directed you to submit additional income documentation by January 31, 2017.

On January 24, 2017, you uploaded two documents to your NYSOH account.

On January 31, 2017, NYSOH invalidated the income documentation you uploaded to your account on January 24, 2017.

On February 1, 2017, NYSOH issued a notice stating that the documentation you had uploaded did not confirm the information in your application. This notice further directed you to submit additional income documentation by February 15, 2017.

On February 24, 2017, you uploaded seven documents to your NYSOH account.

On March 6, 2017, NYSOH invalidated the income documentation you uploaded to your account on February 24, 2017.

On March 7, 2017, NYSOH issued a notice stating that the documentation you had uploaded did not confirm the information in your application. This notice further directed you to submit additional income documentation by April 1, 2017.

On March 8, 2017, NYSOH received your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$100.00 in advanced premium tax credits (APTC), effective April 1, 2017. You also attempted to enroll into a qualified health plan but were unable to select a plan for enrollment.

Also on March 8, 2017, you spoke to NYSOH's Account Review Unit and appealed your inability to enroll into a qualified health plan outside of the open enrollment period.

On March 9, 2017, NYSOH issued an eligibility determination notice, based on the March 8, 2017 application for financial assistance, stating that you were eligible to receive APTC of up to \$100.00 per month, effective April 1, 2017. It

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further stated that you do not qualify to select a health plan outside of the open enrollment period for 2017.

On June 16, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held opened to July 3, 2017, to allow you to submit supporting documents.

On June 23, 2017, a document was uploaded to your NYSOH account. That documentation was submitted into the record as "Appellant's Exhibit #1", and the record was closed that day.

## **Findings of Fact**

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

- 1) On December 2, 2016, you submitted an application for health insurance.
- 2) Your December 2, 2016 listed two employers.
- 3) You testified that you work as [REDACTED] and a [REDACTED]; therefore, your income fluctuates based on your [REDACTED] and if you are needed to work as a [REDACTED].
- 4) You testified that you were confused on how to input your income into your application because of the way you are employed and paid.
- 5) The record indicates that on December 2, 2016, you uploaded your 2015 federal tax return.
- 6) The record indicates that on December 9, 2016, you uploaded your 2015 federal tax return, and three screen shots of confirmation that you had submitted your 2015 federal tax return and 2015 NYS tax return.
- 7) On December 19, 2016, NYSOH invalidated the documentation you had submitted on December 2, 2016 and December 9, 2016 because a 1040A form is not valid proof of income.
- 8) The record indicates that on December 21, 2016, you uploaded eleven pay stubs.
- 9) On December 21, 2016, you uploaded four pay statements from one employer, including a pay statement dated November 4, 2016 for \$1,650.00, a pay statement dated November 18, 2016 for \$1,549.50, a pay statement dated December 2, 2016 for \$1,612.50, and a pay statement dated December 16, 2017 for \$1,249.50.

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- 10) On December 21, 2016, you uploaded three paystubs from another employer, including a paystub dated September 16, 2016 for \$574.91, a paystub dated October 28, 2016 for \$99.99, and a paystub dated December 2, 2016 for \$158.32.
- 11) On December 21, 2016, you uploaded four paystubs from another employer; including a paystub dated September 30, 2016 for \$240.00, a paystub dated October 28, 2016 for \$1,408.13, a paystub dated November 15, 2016 for \$1,036.00, and a paystub dated November 30, 2016 for \$360.00.
- 12) On December 28, 2016, NYSOH invalidated the documentation you uploaded on December 21, 2016 because you did not submit enough paystubs to calculate your income.
- 13) On January 24, 2017, you uploaded two documents to your NYSOH account which included a screenshot of an earnings detail from your employer dated December 30, 2016 for the amount of \$240.00, and a payment statement from another employer dated December 16, 2016 for the amount of \$1,249.50.
- 14) On January 31, 2017, NYSOH invalidated the income documentation you uploaded on January 24, 2017 because it only matched one of the employers listed on your application.
- 15) On February 24, 2017, you uploaded seven documents to your NYSOH account; which included a letter dated February 24, 2017 signed by you; three earning details from one of your employers dated January 13, 2017 in the amount of \$324.00, January 31, 2017 in the amount of \$312.00, and February 15, 2017 in the amount of \$504.00; two payment statements from another employer dated January 13, 2017 in the amount of \$499.50 and dated January 27, 2017 in the amount of \$1,149.00.
- 16) On March 6, 2017, NYSOH invalidated the income documentation you uploaded on February 24, 2017 because you had submitted four paystubs with no employer information, and no separation letters from any of your employers.
- 17) On March 8, 2017, NYSOH received your updated application for financial assistance with health insurance.
- 18) On March 8, 2017, you attempted to enroll in a qualified health plan.

- 19) You testified, and submitted documentation, that you lost prior health insurance coverage through your parent's health insurance on December 31, 2016.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
  - (i) Loses minimum essential coverage.
  - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
  - (iii) Loses pregnancy-related coverage.
  - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.

- (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.
- (5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.
- (7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—
  - (i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or
  - (ii) Was living outside of the United States or in a United States territory at the time of the permanent move;
- (8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.
- (9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;
- (10) A qualified individual or enrollee—

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(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days.

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective April 1, 2017.

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NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On December 2, 2016 you submitted an application for health insurance and NYSOH could not determine your eligibility because the information you entered into your application did not match federal or state databases. On March 8, 2017 you submitted an updated application for health insurance, and requested to enroll in a qualified health plan. On March 9, 2017, NYSOH issued a notice stating that you do not qualify to enroll in a qualified health plan outside of the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

An individual may qualify for a special enrollment period if the individual applies for coverage through NYSOH during the annual open enrollment period and is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended.

The record indicates that on December 2, 2016, NYSOH received your application for financial assistance for health insurance. On December 4, 2016, NYSOH issued a notice stating that more information was needed to confirm the information listed in your application. This notice further directed you to submit income documentation by December 17, 2016.

You uploaded your 2015 federal tax return to your NYSOH account on December 9, 2017. NYSOH invalidated your documentation on December 19, 2016 because it was not valid proof of income. Subsequently, NYSOH issued a notice, on December 20, 2016, stating that the income documentation you submitted was not sufficient and directed you to submit additional documentation by January 16, 2017.

On December 21, 2016, you uploaded eleven paystubs to your NYSOH account. On December 28, 2016, NYSOH invalidated the paystubs you uploaded to your account because you submitted paystubs from an employer that you attested to no longer being employed with and you did not submit enough paystubs to calculate your income. Subsequently, on December 29, 2016, NYSOH issued a notice stating that the income documentation you submitted was not sufficient and directed you to submit additional documentation by January 31, 2017.

On January 24, 2017, you submitted two additional paystubs to your NYSOH account. On January 31, 2017, NYSOH invalidated this documentation because you had only submitted two paystubs and only one paystub matched the employers listed in your application. Subsequently, NYSOH issued a notice

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stating that the income documentation you submitted was not sufficient and directed you to submit additional documentation by February 15, 2017.

On February 24, 2017, you submitted a letter signed by dated February 24, 2017, and six paystubs. On March 6, 2017, NYSOH invalidated this documentation because four of the paystubs you had submitted did not list an employer. Subsequently, on March 7, 2017, NYSOH issued a notice stating that the income documentation you submitted was not sufficient to solve the inconsistencies and directed you to submit additional documentation by April 1, 2017.

On March 8, 2017, NYSOH received your application for financial assistance with health insurance, and you were found eligible for up to \$100.00 in APTC per month, effective April 1, 2017. You attempted to enroll into a qualified health plan that day, but were unable to do so.

On March 9, 2017, NYSOH issued an eligibility determination stating that you were found eligible for \$100.00 in APTC per month, effective April 1, 2017. This notice also stated that you were not eligible to enroll into a qualified health plan outside of the open enrollment period.

Since you applied for coverage on December 2, 2016, during the open enrollment period, and were accessed as potentially eligible for Medicaid, but was determined ineligible for Medicaid after open enrollment had ended; you should have been granted a special enrollment period as of your March 8, 2017 application.

Therefore, NYSOH's March 9, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you are eligible for a special enrollment period as of the date of your March 8, 2017 application.

Your case is RETURNED to NYSOH to assist you in enrolling into a qualified health plan. You may choose to enroll into a qualified health plan as of March 8, 2017; which would result in an April 1, 2017 start date, because you should have been found eligible for a special enrollment period. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

## **Decision**

The March 9, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you are eligible for a special enrollment period as of the date of your March 8, 2017 application.

Your case is RETURNED to NYSOH to assist you in enrolling into a qualified health plan. You may choose to enroll into a qualified health plan as of March 8,

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2017; which would result in an April 1, 2017 start date, if so choose. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

You will be responsible for premium payments for any months you are enrolled into coverage.

**Effective Date of this Decision:** June 30, 2017

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

NYSOH improperly denied you a special enrollment period.

Your case is being sent back to NYSOH to allow you to enroll into coverage as of March 8, 2017, if you so choose. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

You will be responsible for any premium payments for any months you are enrolled into coverage.

### **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 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:

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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**

The March 9, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you are eligible for a special enrollment period as of the date of your March 8, 2017 application.

NYSOH improperly denied you a special enrollment period.

Your case is being sent back to NYSOH to allow you to enroll into coverage as of March 8, 2017, if you so choose. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

You will be responsible for any premium payments for any months you are enrolled into coverage.

### **Legal Authority**

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).

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

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**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)**

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