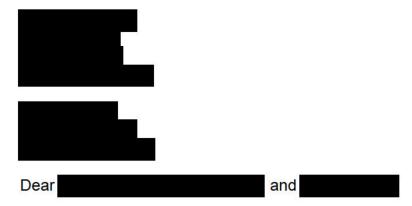


STATE OF NEW YORK DEPARTMENT OF HEALTH P.O. Box 11729 Albany, NY 12211

Notice of Decision

Decision Date: August 8, 2017

NY State of Health Account ID: Appeal Identification Number: AP00000016851



On July 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 15, 2017 disenrollment notice, March 16, 2017 eligibility determination notice and March 16, 2017 enrollment confirmation 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 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.



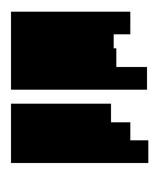
STATE OF NEW YORK DEPARTMENT OF HEALTH P.O. Box 11729 Albany, NY 12211

Decision

Decision Date: August 8, 2017

NY State of Health Account ID:

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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 disenroll your oldest two children from their Child Health Plus plan as of February 28, 2017?

Did NY State of Health provide a timely determination of your oldest two children's Child Health Plus eligibility as of April 1, 2017?

Did NY State of Health properly determine that your oldest two children's eligibility for and enrollment in their Child Health Plus plan was effective April 1, 2017?

Procedural History

On October 20, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your oldest two children were eligible for Child Health Plus, effective December 1, 2016.

On October 23, 2016, NYSOH issued a notice of enrollment stating that your oldest two children were enrolled in their Child Health Plus plan, effective December 1, 2016.

On January 26, 2017, you updated your household's application for financial assistance.

On January 27, 2017, NYSOH issued a notice of eligibility determination stating that your oldest two children were eligible for Child Health Plus for a limited time, effective March 1, 2017. This notice further stated that you must submit income documentation by March 27, 2017 in order to confirm your two oldest children's eligibility.

On February 14, 2017, you updated your household's application for financial assistance.

On February 15, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources, and that income documentation was required by March 1, 2017 in order to determine your two oldest children's eligibility for financial assistance.

On February 26, 2017, February 27, 2017, and March 2, 2017, income documentation was uploaded to your NYSOH account.

On March 6, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account. NYSOH updated the income information in your application based on the income documentation you submitted, and submitted an application on your behalf with this updated information.

On March 7, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources, and that income documentation was required by March 16, 2017 in order to determine your two oldest children's eligibility for financial assistance.

Also on March 7, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application, and that additional income documentation was due by March 31, 2017 in order to determine your oldest two children's eligibility for financial assistance.

On March 15, 2017, you updated your household's application for financial assistance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your two oldest children were eligible for Child Health Plus, effective April 1, 2017.

Also on March 15, 2017, you contacted NYSOH's Account Review Unit and requested an appeal, insofar as your children were not enrolled in their Child Health Plus plan for the month of March 2017.

On March 16, 2017, NYSOH issued a notice of eligibility determination, based on your March 15, 2017 application, stating that your oldest two children were eligible to enroll in Child Health Plus, effective April 1, 2017.

Also on March 16, 2017, NYSOH issued a notice of enrollment, based on your plan selection on March 15, 2017, stating that your two oldest children were enrolled in a Child Health Plus plan, and that their enrollment in the plan would start April 1, 2017.

On July 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, acted as your attorney. Your spouse was also present and provided sworn testimony. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- Your spouse testified that you are appealing only your two oldest children's eligibility, insofar as they were not enrolled in a Child Health Plus plan for the month of March 2017. Your spouse further testified that your children have outstanding medical bills for treatment received in March 2017.
- 2) Your spouse testified that you receive all your notices from NYSOH via regular mail.
- No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 4) Your spouse testified that you received the January 27, 2017 eligibility determination requesting income documentation, the February 15, 2017 notice requesting income documentation, and the March 7, 2017 notice requesting income documentation.
- 5) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 6) The record reflects that on January 26, 2017, you contacted NYSOH. A review of the recording of that phone call, as well as a review of your NYSOH account, indicates that you were calling to report the birth of your third child. In addition to updating your account with your third child's information, you also updated your expected income for 2017, as well as deductions you intended to claim on your 2017 tax return.

- 7) As a result of your January 26, 2017 application, your two oldest children were found eligible for conditional Child Health Plus.
- 8) Your spouse argued that the eligibility as per your application on January 26, 2017 should have remained in effect, and that your oldest two children should have had coverage for the month of March 2017.
- 9) On January 27, 2017, NYSOH issued a notice of eligibility determination based on the January 26, 2017 application.
- 10) The record reflects that on February 14, 2017, you contacted NYSOH. A review of the recording of that phone call, as well as a review of your NYSOH account, reveals that you were calling to correct the spelling of your third child's name on your account. During that phone call, you also updated your income to remove one of your employers from your income information.
- 11)The application you submitted on February 14, 2017 listed annual household income as \$39,000.00. This application also indicated that you and your spouse will file your 2017 tax return as married filing jointly and will claim three dependents on that return.
- 12) As a result of your February 14, 2017 application, your two oldest children were put into a pending documentation for Medicaid status.
- 13)On February 26, 2017, you uploaded income documentation to your NYSOH account consisting of a letter from your employer dated February 22, 2017 stating that you typically work 5 hours per week for \$92.00 per hour in a per diem position; paystubs from your spouse's employer for pay dates December 1, 2016, December 28, 2016, January 15, 2017; your spouse's 2016 W-2; a letter from your spouse's employer dated February 24, 2017 stating that your spouse was paid a salary of \$2,500.00 twice per month, however, his last pay was received on February 10, 2017, and your spouse had not been paid thereafter.
- 14)On February 27, 2017, you uploaded a letter from your employer dated February 24, 2017 stating that you were employed for the months of November, December, and part of January for 2.5 hours per day at a rate of \$50.00 per hour and that you were on January and February and would not be continuing to work for that employer.
- 15)On March 2, 2017, you uploaded a letter dated March 1, 2017 signed by yourself and your spouse stating that your children had no income and that you and your spouse were the only source of income for your children.

- 16)On March 6, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account because you needed to submit a termination letter from with a termination date.
- 17) The record reflects that on March 15, 2017, your spouse contacted NYSOH on your behalf. A review of your NYSOH account, as well as the recording of that phone call, reveals that your spouse updated his expected income, your expected income, and the deductions you expected to claim on your 2017 tax return.
- 18) As a result of your March 15, 2017 application, your two oldest children were found fully eligible for Child Health Plus, effective April 1, 2017.
- 19) Your spouse selected a Child Health Plus plan for reenrollment for your two oldest children on March 15, 2017.

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

Applicable Law and Regulations

Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP 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) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

The "period of eligibility" for Child Health Plus 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)).

Effective September 1, 2017, if a child appears Medicaid eligible, health plans will no longer enroll them in a Child Health Plus plan on a temporary basis (see CHP State Plan (CSP) approved July 16, 2010 and effective October 1, 2009, State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014)

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

Child Health Plus – Proper Notice

NYSOH may not deny or terminate eligibility or reduce benefits for any individual on the basis of the information received, unless NYSOH has sought additional information from the individual and provided proper notice and hearing rights to the individual (42 CFR § 457.380(d); 42 CFR § 435.952(d)).

Timely Notice of Child Health Plus Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the

applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)). NYS has elected to use a common application for Medicaid and Child Health Plus, therefore the timeliness standards for Child Health Plus determinations are the same as those for Medicaid determinations (see State Plan Amendment NY-CSPA-19, approved March 22, 2012 and effective November 11, 2011).

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which was \$28,780.00 for a five-person household ((82 Fed. Reg. 8831).

Legal Analysis

The first issue is whether NYSOH properly disenrolled your oldest two children from their Child Health Plus plan as of February 28, 2017.

On January 27, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus for a limited time, effective March 1, 2017.

On February 14, 2017, you updated your household's application for financial assistance. Specifically, you updated the income information in your application.

This resulted in your oldest two children being placed in a pending documentation for Medicaid status and disenrolled from their Child Health Plus plan as of February 28, 2017.

According to the record, you expect to file your tax return as married filing jointly and will claim three dependents on that tax return. Therefore, your children are in a five-person household.

On your February 14, 2017, you listed an expected annual household income of \$39,000.00.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$39,000.00 is 135.51% of the 2017 FPL for a five-person household. Therefore, based on your February 14, 2017 application, it appeared as though your children were eligible for Medicaid pending confirmation of the income amount you had attested to.

As of September 1, 2007, children who appear eligible for Medicaid are no longer eligible to enroll in Child Health Plus on a temporary basis.

Therefore, NYSOH properly disenrolled your children from their Child Health Plus plan, effective February 28, 2017.

The second issue is whether NYSOH provided you with a timely determination of your oldest two children's Child Health Plus eligibility as of April 1, 2017.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your household's application for financial assistance with health insurance on February 14, 2017. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household's income.

On February 26, 2017, you uploaded income documentation to your NYSOH account consisting of a letter from your employer dated February 22, 2017 stating that you typically work 5 hours per week for \$92.00 per hour in a per diem position; paystubs from your spouse's

employer for pay dates December 1, 2016, December 28, 2016, January 15, 2017; your spouse's 2016 W-2; a letter from your spouse's employer dated February 24, 2017 stating that your spouse was paid a salary of \$2,500.00 twice per month, however, his last pay was received on February 10, 2017, and your spouse not been paid thereafter.

On February 27, 2017, you uploaded a letter from your employer dated February 24, 2017 stating that you were employed for the months of November, December, and part of January for 2.5 hours per day at a rate of \$50.00 per hour and that you were on for January and February and would not be continuing to work for that employer.

On March 2, 2017, you uploaded a letter dated March 1, 2017 signed by yourself and your spouse stating that your children had no income and that you and your spouse were the only source of income for your children.

On March 6, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account because you needed to submit a termination letter from with a termination date.

However, the record reflects that on February 27, 2017, you uploaded a letter from your employer which reflects that you were on January 2017 and February 2017 and would not be continuing to work for that employer.

Therefore, your application was complete as of February 27, 2017.

NYSOH must provide applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH has never determined your children's eligibility based on your application which was complete as of February 27, 2017, therefore, there was no timely eligibility determination notice issued based on this application.

The second issue is whether NYSOH properly determined that your oldest two children's eligibility for and enrollment in their Child Health Plus plan began on April 1, 2017.

The date on which a Child Health Plus 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 from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

You submitted sufficient documentation of your household's income on February 27, 2017. Had NYSOH properly verified your income documentation, your oldest two children's eligibility could have been determined as soon as February 27, 2017. Had NYSOH issued an eligibility determination on February 27, 2017, you would have been able to select a Child Health Plus plan for your oldest two children as soon as February 27, 2017.

Were you able to select a Child Health Plus plan for your oldest two children as of February 27, 2017, your oldest two children's eligibility for and enrollment in their Child Health Plus plan would have taken effect on the first day of the second month following after February 27, 2017; that is, on April 1, 2017.

As the March 16, 2017 eligibility determination and March 16, 2017 enrollment notice properly found your oldest two children eligible for and enrolled in their Child Health Plus plan effective April 1, 2017, they are AFFIRMED.

Decision

The February 15, 2017 disenrollment notice is AFFIRMED.

The March 16, 2017 eligibility determination notice is AFFIRMED.

The March 16, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 8, 2017

How this Decision Affects Your Eligibility

This decision does not change your oldest two children's eligibility.

Your oldest two children were properly disenrolled from their Child Health Plus plan as of February 28, 2017.

The effective date of your oldest two children's Child Health Plus plan is April 1, 2017.

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:

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 February 15, 2017 disenrollment notice is AFFIRMED.

This decision does not change your oldest two children's eligibility.

Your oldest two children were properly disenrolled from their Child Health Plus plan as of February 28, 2017.

The March 16, 2017 eligibility determination notice is AFFIRMED.

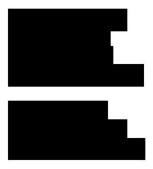
The March 16, 2017 enrollment confirmation notice is AFFIRMED.

The effective date of your oldest two children's Child Health Plus plan is April 1, 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**。我们可以为您免费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.

(Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-455-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

□□□□□ (Bengali)

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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. yebetumi ama wo obi a okyere kasa a woka no ase ama wo kwa a wontua hwee.

اردو(Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-485-1 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)

טיין, ביטע רופט 5777-355-355. מיר קענען אייך	אס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשט: עבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.