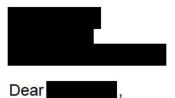


STATE OF NEW YORK DEPARTMENT OF HEALTH P.O. Box 11729 Albany, NY 12211

Notice of Decision

Decision Date: July 20, 2017

NY State of Health Account ID: Appeal Identification Number: AP00000017493



On July 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 20, 2016 eligibility determination, November 20, 2016 plan enrollment notice, March 30, 2017 eligibility determination, and March 30, 2017 plan enrollment 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: July 20, 2017	
NY State of Health Account ID: Appeal Identification Number: AP00000017493	
Issues	
The issues presented for review by the Appeals Unit of NY State of Health	n are:
Did NY State of Health properly determine that you, your spouse, you or spouse, y	eligible
Did NY State of Health properly determine that you, your spouse, an oldest (properly determine that you, your spouse, and oldest (properly determine that you, your spouse,	
Procedural History	
On November 19, 2016, NY State of Health (NYSOH) received your appli	cation

Also on November 20, 2016, NYSOH issued a plan enrollment notice confirming your, your spouse's, your and your oldest enrollment in a qualified health plan with the application of your APTC, effective January 1, 2017.

On November 20, 2016, NYSOH issued a notice of eligibility determination

receive up to \$545.00 in advanced premium tax credits (APTC), effective January 1, 2017. That notice also stated that you, your spouse, your your oldest were not eligible for the Essential Plan because your

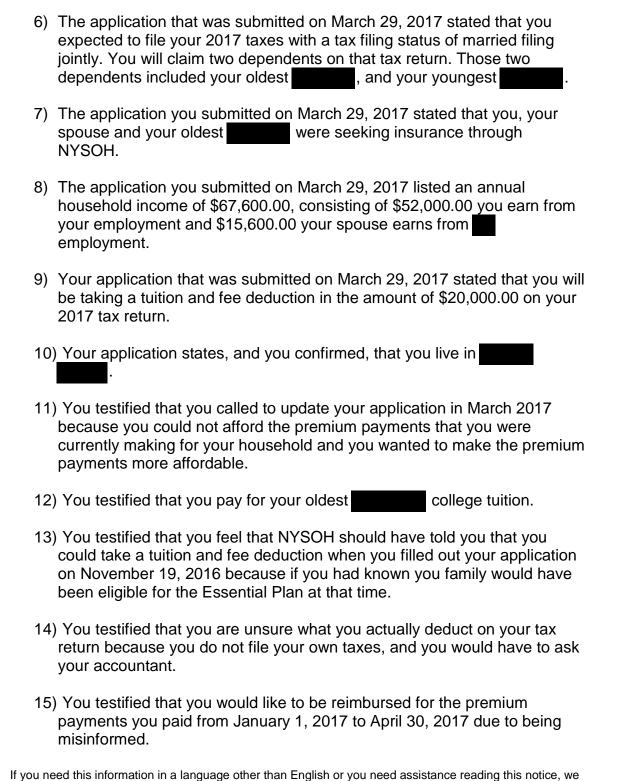
were eligible to

for financial assistance with health insurance.

stating that you, your spouse, your and your oldest

income was over the allowable income limits for that program.

On March 29, 2017, NYSOH received your updated application for health insurance and your was removed from your NYSOH account. That day, a preliminary eligibility determination was prepared stating that you, your spouse, and your oldest were eligible for the Essential Plan with a \$20.00 monthly premium, for a limited time, effective May 1, 2017.				
Also on March 29, 2017, you spoke to NYSOH's Account Review Unit and appealed your household's eligibility determination in so far as you, your spouse, and your oldest were not found eligible for the Essential Plan, effective January 1, 2017.				
On March 30, 2017, NYSOH issued an eligibility determination notice, based on the March 29, 2017 application, stating that you, your spouse, and your oldest were eligible the Essential Plan with a \$20.00 monthly premium, for a limited time, effective May 1, 2017. This notice also stated that your household was no longer eligible for your qualified health plan as of April 30, 2017. This notice further directed you to submit income documentation by June 27, 2017.				
Also on March 30, 2017, NYSOH issued a plan enrollment notice confirming your, your spouse's and your oldest enrollment in an Essential Plan, effective May 1, 2017.				
On July 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was closed at the end of the hearing.				
Findings of Fact				
A review of the record supports the following findings of fact:				
1) The application that was submitted on November 19, 2016 stated that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim three dependents on that tax return. Those three dependents included your , your oldest , and your youngest .				
2) The November 19, 2016 application stated that you, your spouse, your , and your oldest were seeking insurance through NYSOH.				
3) The application that was submitted on November 19, 2016 listed annual household income of \$92,600.00, consisting of \$52,000.00 you earn from your employment, \$15,600.00 your earns from employment, and \$25,000.00 your earns from employment.				



can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

4) The application that was submitted on November 19, 2016 stated that you

will not be taking any deductions on your 2017 tax return.

) from your NYSOH account.

5) The record reflects that on March 17, 2017, you removed your

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

 the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$28,440.00 for a five -person household (81 Federal Register 4036).

For annual household income in the range of at least 300% but less than 400% of the 2016 FPL, the expected contribution for 2017 is 9.69% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present noncitizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see https://www.medicaid.gov/basic-health-program.html).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

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

CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 435.603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

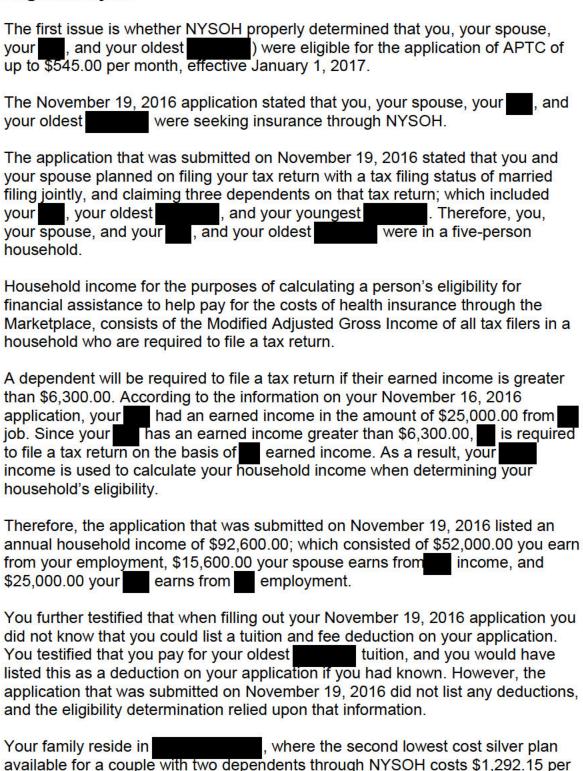
A dependent is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(a)(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

For the purposes of determining a person's eligibility for financial assistance for health insurance through NYSOH, the term "MAGI" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent's higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer's yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Legal Analysis

month.



An annual income of \$92.600.00 is 325.60% of the 2016 FPL for a five-person household. At 325.60% of the FPL, the expected contribution to the cost of the health insurance premium is 9.69% of income, or \$747.75 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a couple and two dependents under 26 years of age in your county (\$1,292.15 per month) minus your expected contribution (\$747.75 per month), which equals \$544.40 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you, your spouse, your and your oldest to be eligible for up to \$545.00 per month in APTC and not eligible for the Essential Plan.

You enrolled yourself, your spouse, your , and your oldest into a qualified health plan, and elected to apply your APTC amount of up to \$545.00 to the premium payments on November 19, 2016.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you updated your application on November 19, 2016, and enrolled your household into a qualified health plan that day, your, your spouse's, your and your oldest qualified health plan enrollment with the application of APTC should have been effective as of January 1, 2017.

Therefore, the November 20, 2016 eligibility determination is AFFIRMED.

The November 20, 2017 plan enrollment notice confirming that your, your spouse's, your and your oldest enrollment in a qualified health plan with the application of APTC was effective January 1, 2017 is AFFIRMED.

The second issue is whether NYSOH properly determine that you, your spouse and your oldest were eligible for and enrolled in an Essential Plan, effective May 1, 2017.

The record indicates that your was removed from your NYSOH account on March 17, 2017. Therefore, the application that was submitted on March 29, 2017 did not include your in your household.

The March 29, 2017 application stated that you, your spouse and your oldest were seeking insurance through NYSOH.

The March 29, 2017 application stated that you and your spouse planned on filing your 2017 tax return with a tax filing status of married filing jointly, and claiming two dependents on that tax return. Those two dependents were your oldest and your youngest Therefore, you, your spouse, and your oldest are in a four-person household.

The application that was submitted on March 29, 2017 listed earned income of \$67,600.00; which consisted of \$52,000.00 you earn from your employment, \$15,600.00 your spouse earns from income. The application also stated that you plan on taking a tuition and fee deduction of \$20,000.00 on your 2017 tax return. Based on the information provided, NYSOH calculated your annual household income to be \$47,600.00.

However, NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code. The Internal Revenue Service rules allow a tax payer to deduct from their adjusted gross income the tuition and fees for a dependent's higher education in the amount of \$4,000.00 if the tax payer's yearly income does not exceed \$160,000.00 when the tax payer files their taxes married filing jointly.

Since the highest amount you can deduct on your tax return for tuition and fees paid to an institution of higher education, based on IRS regulation, is \$4,000.00, your household's eligibility should have been determined using a MAGI of \$63,600.00 (\$52,000.00 you earn from your employment, \$15,600.00 your spouse earns from income, and a \$4,000.00 tuition and fee deduction).

Therefore, the income amount that was relied on in the March 30, 2017 eligibility determination is not supported by the record and the eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your, your spouse's, and your oldest on a four-person household, residing in household income of \$63,600.00, and to notify you accordingly.

The March 30, 2017 plan enrollment notice confirming your, your spouse's and your oldest (Confirming your, your spouse's and effective May 1, 2017 is RESCINDED.

Decision

The November 20, 2017 eligibility determination is AFFIRMED.

The November 20, 2017 plan enrollment notice is AFFIRMED

The March 30, 2017 eligibility determination is RESCINDED.

The March 30, 2017 plan enrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your, your spouse's, and your oldest () eligibility, as of March 29, 2017, based on a four-person household, residing in household income of \$63,600.00, and to notify you accordingly.

Effective Date of this Decision: July 20, 2017

How this Decision Affects Your Eligibility

NYSOH properly determined that y	you, your spouse,	your oldest	
), and your oldest) were e	ligible for up
to \$545.00 in APTC, effective Janu	uary 1, 2017 through	gh April 30, 2017	⁷ based on
your November 19, 2016 application	on.		

Your case is being sent back to NYSOH to your, your spouse's, and your oldest evidence presented at the hearing.

NYSOH will notify you accordingly.

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 November 20, 2017 eligibility determination is AFFIRMED.

The November 20, 2017 plan enrollment notice is AFFIRMED

The March 30, 2017 eligibility determination is RESCINDED.

The March 30, 2017 plan enrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to	redetermine you, your spouse's, and
your oldest (eligibility, as of March 29, 2017, based
on a four-person household, residing in	, with an expected annual
household income of \$63,600.00, and to	notify you accordingly

NYSOH properly determined that you, your spouse, your oldest () were eligible for up
to \$545.00 in APTC, effective January 1, 2017 based on your November 19,
2016 application.
Your case is being sent back to NYSOH to redetermine you, your spouse's, and your oldest () eligibility in accordance with your testimony and evidence presented at the hearing.
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NYSOH will notify you accordingly.

Legal Authority

We are sending you this notice 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.

<u>한국어 (Korean)</u>

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 5777-355-855-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নখি। 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।

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 निःशूल्क 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 کرم5777-355-855-1 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)

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.