



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

**Notice of Decision**

Decision Date: August 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017942

[REDACTED]

Dear [REDACTED],

On July 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s March 14, 2017 eligibility determination, March 14, 2017 disenrollment, April 12, 2017 eligibility determination and April 12, 2017 enrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
  - NY State of Health Appeals
  - P.O. Box 11729
  - Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

**Legal Authority**

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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

## Decision

Decision Date: August 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017942

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that you were eligible for up to \$261.00 per month in advance premium tax credits, effective April 1, 2017?

Did NYSOH properly determine that your enrollment in the Essential Plan ended as of March 31, 2017?

Did NYSOH properly determine your eligibility for and enrollment in the Essential Plan for \$0.00 per month was effective May 1, 2017?

## Procedural History

On December 1, 2016, NYSOH received your application for financial assistance with your health insurance.

On December 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your income before March 1, 2017. The income listed in your application was \$22,784.00.

On December 7, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2017.

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On February 17, 2017, NYSOH received your income documentation in the form of your 2016 tax return.

On February 28, 2017, a NYSOH representative reviewed your income documentation and determined it to be invalid.

On March 1, 2017, NYSOH issued a notice stating the documentation it reviewed does not confirm the information in your application. The notice requested you to provide proof of your income by March 16, 2017.

On March 3, 2017, NYSOH received your income documentation.

On March 13, 2017, the documentation you submitted was reviewed and your application for financial assistance was updated.

On March 14, 2017, NYSOH issued a notice stating you were eligible for advance payment of the premium tax credit up to \$261.00 per month as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, effective April 1, 2017. The notice further stated you no longer qualify for the Essential Plan as of March 31, 2017.

On March 14, 2017, NYSOH issued a disenrollment notice stating your enrollment in an Essential Plan would end on March 31, 2017.

On April 11, 2017, NYSOH received your updated application for financial assistance with your health insurance. That day, a preliminary determination was prepared stating that you were eligible to enroll in the Essential Plan with a \$0.00 premium cost per month, effective May 1, 2017 and you selected a plan for enrollment.

Also on April 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of April 2017 because you had no insurance coverage for that month.

On April 12, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan with a \$0.00 premium per month for a limited time, effective May 1, 2017. The notice requested you provide proof of your income by July 10, 2017.

On April 12, 2017, NYSOH issued an enrollment notice confirming your enrollment on April 11, 2017 in an Essential Plan 2 with a \$0.00 premium, effective May 1, 2017.

On July 25, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to August 9, 2017, to allow you to submit supporting documents.

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On July 26, 2017, you uploaded a copy of your spouse's Social Security Benefits informational letter (See Document [REDACTED]). The record was then closed.

## Findings of Fact

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

- 1) Your application states that you plan on filing your 2017 tax return as married filing jointly and will claim no dependents on that tax return.
- 2) On December 1, 2016, you submitted an application for health insurance that listed an annual household income of \$22,784.00 which consisted of \$3,500.00 in income you expect to earn and \$19,284.00 your spouse expects to receive from Social Security benefits.
- 3) On March 3, 2017, you submitted copies of your paystubs. These consisted of check dates of February 9, and 23, 2017 for the period of 1/21/17 through 2/17/17 in the gross amounts of \$439.20 and \$680.76 respectively.
- 4) On March 13, 2017, the income information in your application was updated by an NYSOH representative to \$33,843.48 based partly on the paystubs you submitted. The amount consisted of \$14,559.48 per year you receive in annual household income and \$19,284.00 your husband receives in income from Social Security.
- 5) You testified you stopped working April 1, 2017 due to [REDACTED] and have not been back to work since, although you are still employed.
- 6) You provided a letter from your employer on April 4, 2017, to NYSOH dated April 2, 2017, stating you were scheduled for [REDACTED] and it was unclear when you would be able to return to work, that you have no paid sick leave as you are a part-time employee and your last shift was [REDACTED].
- 7) You testified and your application reflects your husband receives \$1,607.00 in Social Security Benefits per month.
- 8) You provided a copy of an informational letter for Social Security Benefits for your husband on July 26, 2017.
- 9) On April 11, 2017, you updated the income information in your NYSOH account to \$23,780.31 for 2017.

- 10) You enrolled in an Essential Plan with \$0.00 premium on April 11, 2017.
- 11) You testified that you are seeking enrollment in your Essential Plan as of April 1, 2017.
- 12) You reside in [REDACTED], NY.

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:

- 1) 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

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application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

For annual household income in the range of at least 200% but less than 250 % of the 2017 FPL, the expected contribution is between 6.43% and 8.21% 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).

### 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 non-citizen 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 \$16,020.00 for a two-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/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 Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax

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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)).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2)(g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see also 42 CFR § 600.320(c)). For updates 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 § 155.420(b)(1)(ii); see also 42 CFR § 600.320(c)).

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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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)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for up to \$261.00 per month in APTC, effective April 1, 2017.

On December 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. Your eligibility was contingent on you submitting documentation to confirm the income listed in your application.

On March 3, 2017, you submitted copies of your paystubs to confirm the income amount listed in your December 1, 2017 application.

On March 13, 2017, the income information in your application was updated by an NYSOH representative to \$33,843.48 based partly on the paystubs you submitted. The amount consisted of \$14,559.48 per year you receive in annual household income and \$19,284.00 your husband receives in income from Social Security benefits. The March 14, 2017 eligibility determination relied on this information.

You are in a two-person household. You expect to file your 2017 income taxes as married filing jointly and will claim no dependents on that tax return.

You reside in [REDACTED], where the second lowest cost silver plan available for an individual through NYSOH costs \$453.36 per month.

An annual income of \$33,843.48 is 211.26% of the 2016 Federal Poverty Level (FPL) for a two-person household. At 211.26% of the FPL, the expected contribution to the cost of the health insurance premium is 6.83% of income, or \$192.62 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 an individual in your county (\$453.36 per month) minus your expected contribution (\$192.62 per month), which equals \$260.74 per month. Therefore, rounding to the nearest

dollar, NYSOH correctly determined you to be eligible for up to \$261.00 per month in APTC.

Since NYSOH's March 14, 2017 eligibility redetermination notice was based on the income documentation you submitted and properly found you newly eligible for APTC up to \$261.00 per month it is correct and AFFIRMED.

The second issue is whether NYSOH properly determined that your enrollment in the Essential Plan ended as of March 31, 2017.

As stated above, you were correctly found eligible for APTC based on the March 13, 2017 application. As a result of this update, you were found no longer eligible for the Essential Plan as of March 31, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month.

Since the updated application was received on March 13, 2017 any changes in eligibility would be made effective the first day of the following month after March; that is as of April 1, 2017.

Therefore, your enrollment and eligibility for the Essential Plan would have terminated as of March 31, 2017 because you were newly eligible for APTC as of April 1, 2017. Accordingly, the March 14, 2017 disenrollment notice terminating your Essential Plan effective March 31, 2017 is AFFIRMED.

The third issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective May 1, 2017.

You testified you stopped working as of April 1, 2017 due to [REDACTED] and have not been back to work since. You submitted a letter from your employer confirming that your last shift at work was [REDACTED].

On April 11, 2017, you submitted an updated application for health insurance reflecting the fact that you were no longer working. As a result, you were found eligible for the Essential Plan as of May 1, 2017 and enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

On April 11, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following April; that is, on May 1, 2017.

Therefore, the April 12, 2017 eligibility determination notice and enrollment confirmation notice stating that your enrollment in the Essential Plan was effective May 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The March 14, 2017 eligibility determination notice is AFFIRMED.

The March 14, 2017, disenrollment notice is AFFIRMED.

The April 12, 2017, eligibility determination notice is AFFIRMED.

The April 12, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** August 25, 2017

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

You were eligible for advance payment of the premium tax credit up to \$261.00 per month effective April 1, 2017.

You were no longer eligible to remain enrolled in the Essential Plan effective March 31, 2017.

You were eligible for the Essential Plan for \$0.00 per month effective May 1, 2017.

The start date of your enrollment in the Essential Plan for \$0.00 per month was effective May 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

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must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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

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

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 14, 2017 eligibility determination notice is **AFFIRMED**.

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You were eligible for advance payment of the premium tax credit up to \$261.00 per month effective April 1, 2017.

The March 14, 2017, disenrollment notice is AFFIRMED.

You were no longer eligible to remain enrolled in the Essential Plan effective March 31, 2017.

The April 12, 2017, eligibility determination notice is AFFIRMED.

You were eligible for the Essential Plan for \$0.00 per month effective May 1, 2017.

The April 12, 2017 enrollment confirmation notice is AFFIRMED.

The start date of your enrollment in the Essential Plan for \$0.00 per month was effective May 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.

### 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)

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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।

### **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&btumi 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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