



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

Notice of Decision

Decision Date: September 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018327

[REDACTED]

Dear [REDACTED],

On August 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 25, 2017 eligibility determination and enrollment confirmation 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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DEPARTMENT OF HEALTH
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Albany, NY 12211

Decision

Decision Date: September 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018327



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 and your spouse were in fact eligible for an advance payment of the premium tax credit (APTC) for May 2017?

Did NYSOH properly determine that your children's Child Health Plus premiums increased from \$9.00 per month each, to \$45.00 per month each during the months of April 2017 and May 2017?

Procedural History

On December 15, 2016, you submitted an application for financial assistance to NYSOH. Also on that date, you uploaded proof of you and your spouse's household income.

On December 16, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$633.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. The notice further directed you to provide documentation confirming your income before March 15, 2017.

The same eligibility determination notice (December 16, 2016) stated that your children remained eligible for Child Health Plus with a \$9.00 monthly premium

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each, for a limited time, effective May 1, 2016. The notice further directed you to provide documentation confirming your children's income before February 13, 2017.

Also on December 16, 2016, NYSOH issued a notice confirming you and your spouse's enrollment in a QHP with APTC and cost-sharing reductions, effective January 1, 2017. The notice also confirmed that your children remained enrolled in a Child Health Plus plan effective May 1, 2016.

On January 4, 2017, your income documentation was deemed invalid.

On January 5, 2017, NYSOH issued a notice stating that the documentation you provided did not confirm the income in your application. The notice directed you to provide proof of income for you and your spouse by March 15, 2017 and for your children by February 13, 2017. The notice stated that if you missed the due date that you might lose your insurance coverage or receive less help paying for your coverage.

No documentation was received by February 13, 2017.

On February 19, 2017, NYSOH redetermined your eligibility.

On February 20, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for Child Health Plus with a monthly premium of \$45.00 each because NYSOH redetermined your children's eligibility because you did not send in documentation to confirm their income. The eligibility was effective April 1, 2017.

Also on February 20, 2017, NYSOH issued an enrollment confirmation notice stating that your children remained enrolled in a Child Health Plus plan, with a monthly premium of \$45.00 each.

No documentation was received by March 15, 2017.

On March 21, 2017, NYSOH redetermined your eligibility.

By notice dated March 22, 2017, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible for a QHP at full cost because NYSOH did not receive the income information needed to verify the income listed in your application. The eligibility was effective May 1, 2017.

Also on March 22, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with no APTC, effective January 1, 2017.

On April 24, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your children were eligible for Child Health Plus, with a monthly premium of \$9.00 each, effective June 1, 2017.

Also on April 24, 2017, you spoke to NYSOH's Account Review Unit and appealed the increase in your children's Child Health Plus premiums from \$9.00 per month each to \$45.00 per month each for the months of April 2017 and May 2017. You also, through your appeal, sought confirmation that you would not be retroactively directed to pay your full premium without APTC for the month of May 2017.

On April 25, 2017, NYSOH issued a notice of eligibility determination, based on the April 24, 2017 application, stating that your children were eligible for Child Health Plus with a monthly premium of \$9.00 each, effective June 1, 2017. The notice also stated that you and your spouse were eligible to receive up to \$633.00 in APTC and eligible to receive cost-sharing reductions, effective June 1, 2017.

Also on April 25, 2017, NYSOH issued a notice of enrollment confirmation stating that your children were enrolled in Child Health Plus with a monthly premium of \$9.00 each, effective June 1, 2017. The notice also stated that you and your spouse were enrolled in a QHP with an APTC of \$633.00 per month with your APTC starting May 1, 2017 and an enrollment start date of January 1, 2017.

On August 2, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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:

- 1) On December 15, 2016, you submitted an application for financial assistance to NYSOH. Also on that date, you uploaded proof of you and your spouse's income.
- 2) On December 16, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$633.00 in APTC effective January 1, 2017 and that your children remained eligible for Child Health Plus with a \$9.00 monthly premium each, for a limited time, effective May 1, 2016. The notice directed you to provide documentation confirming your children's income before February 13, 2017 and proof of income for you and your spouse before March 15, 2017.

- 3) On January 4, 2017, your income documentation was deemed invalid.
- 4) On January 5, 2017, NYSOH issued a notice stating that the documentation you provided did not confirm the income in your application. The notice directed you to provide proof of income for you and your spouse by March 15, 2017 and for your children by February 13, 2017. The notice stated that if you miss the due date that you may lose your coverage or receive less help paying for your coverage.
- 5) You testified, and your NYSOH account confirms, that you receive alerts of notices from NYSOH by electronic mail.
- 6) You testified that you did receive the January 5, 2017 electronic alert advising you of a notice in your NYSOH account stating that your children's eligibility was only conditional and that you needed to provide documentation of your income. You testified that you did not look at that January 5, 2017 notice until the end of March 2017.
- 7) You testified that it was only until you received a bill from your insurance carrier advising you of the increase in your children's Child health Plus premium for April 2017 that you realized something was occurring with your children's Child Health Plus account and reviewed NYSOH's January 5, 2017 notice.
- 8) No documentation was received by February 13, 2017.
- 9) Your NYSOH account indicates that on February 19, 2017 your eligibility was redetermined and your children were found no longer eligible for their Child Health Plus premium of \$9.00 per month each and were redetermined eligible for a monthly premium of \$45.00 each, effective April 1, 2017 because NYSOH had not received proof of income.
- 10) No documentation was received by March 15, 2017.
- 11) Your NYSOH account indicates that on March 21, 2017 your application was run and you and your spouse were found no longer eligible for APTC as of May 1, 2017.
- 12) You updated the income information in your NYSOH account on April 24, 2017.
- 13) On April 24, 2017, your children were determined eligible for Child Health Plus, with a monthly premium of \$9.00 each, effective June 1, 2017 and you and your spouse were enrolled in a QHP with APTC, effective May 1, 2017.

- 14) You testified that you and your spouse have received your APTC of \$633.00 every month from January 1, 2017 through the present.
- 15) You testified that you contacted NYSOH in late March 2017, after you and your spouse were determined eligible for a full cost QHP, and were advised by a NYSOH representative that you might be responsible for the full cost of you and your spouse's qualified health plan for May 2017.
- 16) You testified that you have had no lapse in your APTC but you were concerned that a NYSOH representative told you that you may have to retroactively pay the full premium amount for May 2017. You testified that through this appeal you wanted confirmation that NYSOH correctly determined that you and your spouse were eligible to receive APTC for May 2017.
- 17) You testified that you also were appealing the increase in your children's Child Health Plus premiums from \$9.00 per month each to \$45.00 per month each for the months of April 2017 and May 2017.

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

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan 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 qualified health plan, 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)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's 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 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 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 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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Child Health Plus

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)).

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

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were in fact eligible for APTC during the month of May 2017.

On December 15, 2016, NYSOH determined that you and your spouse were conditionally eligible to receive up to \$633.00 in APTC, effective January 1, 2017. The notice directed you to provide documentation confirming your income before March 15, 2017. You and your spouse subsequently enrolled in a QHP effective January 1, 2017.

No documentation was received by March 15, 2017.

Your NYSOH account indicates that on March 21, 2017, your application was run and you and your spouse were found no longer eligible for APTC as of May 1, 2017.

By notice dated March 22, 2017, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible for a QHP at full cost because NYSOH did not receive the income information needed to

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verify the income listed in your application. The eligibility was effective May 1, 2017.

You testified that you contacted NYSOH in March 2017, after you and your spouse were determined eligible for a full cost QHP, and were advised by a NYSOH representative that you might be responsible for the full cost of you and your spouse's qualified health plan for the month of May 2017.

You updated the income information in your NYSOH account on April 24, 2017.

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.

On April 25, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a QHP with an APTC of \$633.00 per month with your APTC starting May 1, 2017.

You testified that you and your spouse have received your APTC, without interruption, from January 2017 through August 2017. You testified that you are concerned that the NYSOH representative advised you that you may have to retroactively pay the full monthly premium for your QHP for the month of May 2017. You testified that through this appeal you are seeking confirmation that you and your spouse's APTC was properly provided to you and your spouse during May 2017.

You testified that you contacted NYSOH in March 2017, after you and your spouse were determined eligible to pay full cost for your QHP, and were advised by a NYSOH representative that you may be responsible for the full cost of you and your spouse's qualified health plan for May 2017. At the time you spoke to the NYSOH representative, you had not yet updated your account and this information provided to you was accurate.

However, NYSOH redetermined you and your spouse's eligibility after you updated your account and correctly determined that you and your spouse's APTC was effective May 1, 2017. Therefore, the April 25, 2017 notice of enrollment confirmation is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your children's Child Health Plus premiums increased from \$9.00 per month each, to \$45.00 per month each during the months of April 2017 and May 2017.

Your children were originally found eligible for Child Health Plus effective May 1, 2016.

On December 15, 2016, you submitted an application for financial assistance to NYSOH. Also on that date, you uploaded proof of you and your spouse's income.

On December 16, 2016, NYSOH issued a notice of eligibility determination stating that your children remained eligible for Child Health Plus with a \$9.00 monthly premium each, for a limited time, effective May 1, 2016. The notice further directed you to provide documentation confirming your children's income before February 13, 2017.

On January 4, 2017, your income documentation was deemed invalid.

On January 5, 2017, NYSOH issued a notice stating that the documentation you provided did not confirm the income in your application. The notice directed you to provide proof of income for your children by February 13, 2017. The notice stated that if you miss the due date that you may lose your insurance coverage or receive less help paying for your coverage. You testified that you received this notice.

No documentation was received by February 13, 2017.

Your NYSOH account indicates that on February 19, 2017 your application was run and your children were found no longer eligible for their Child Health Plus premium of \$9.00 per month each and were redetermined eligible for a monthly premium of \$45.00 each, effective April 1, 2017 because NYSOH did not receive proof of income.

You updated the income information in your NYSOH account on April 24, 2017. NYSOH records reflect that also on April 24, 2017, your children were determined eligible for Child Health Plus, with a monthly premium of \$9.00 each, effective June 1, 2017 and subsequently enrolled in a plan.

Therefore, it is concluded that NYSOH did give you the proper notice that you needed to update your account on your children's behalf and correctly determined that your children's monthly premium of \$45.00 was effective during April 2017 and May 2017. Accordingly, the April 25, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

Decision

The April 25, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: September 18, 2017

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How this Decision Affects Your Eligibility

NYSOH correctly determined that you and your spouse were eligible for APTC during the month of May 2017.

NYSOH correctly determined that your children's monthly premium was \$45.00 each for their Child Health Plus plan during April 2017 and May 2017.

NYSOH correctly determined that your children's Child Health Plus plan with a monthly premium of \$9.00 each, was effective June 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

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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 April 25, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

NYSOH correctly determined that you and your spouse were eligible for APTC during the month of May 2017.

NYSOH correctly determined that your children's monthly premium was \$45.00 each for their Child Health Plus plan during April 2017 and May 2017.

NYSOH correctly determined that your children's Child Health Plus plan with a monthly premium of \$9.00 each, was effective June 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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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