



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

Notice of Decision

Decision Date: October 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019298

[REDACTED]

Dear [REDACTED],

On September 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2016 eligibility determination, December 24, 2016 disenrollment, February 18, 2017 eligibility determination, February 18, 2017 enrollment confirmation, April 18, 2017 eligibility determination, April 18, 2017 disenrollment, June 18, 2017 eligibility determination, and June 18, 2017 disenrollment 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: October 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019298

[REDACTED]

Issues

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

Was your appeal of NY State of Health's December 24, 2016 eligibility determination notice, December 24, 2016 disenrollment notice, February 18, 2017 eligibility determination notice, and February 18, 2017 enrollment confirmation notice timely?

Did NY State of Health properly determine that your child was ineligible for and disenrolled from her Child Health Plus plan, effective April 30, 2017?

Did NY State of Health properly determine that your child was ineligible for and disenrolled from her Child Health Plus plan, effective June 30, 2017?

Procedural History

On July 20, 2016, a certified application counselor updated your child's application for financial assistance.

On July 21, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 per month premium, effective September 1, 2016.

Also on July 21, 2016, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a \$45.00 per month premium and a plan enrollment start date of September 1, 2016.

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On December 23, 2016, NYSOH redetermined your child's eligibility for financial assistance.

On December 24, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017. This notice also stated that your child was ineligible for Child Health Plus because data sources showed that your child had Medicaid coverage through the New York City Human Resources Administration.

Also on December 24, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in her Child Health Plus plan would end on December 31, 2016. This was because she was no longer eligible to enroll in a Child Health Plus plan.

On February 17, 2017, a certified application counselor updated your child's application for financial assistance.

On February 18, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in a full price Child Health Plus plan, effective April 1, 2017.

Also on February 18, 2017, NYSOH issued a notice of enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan with a premium of \$254.19 per month and a plan enrollment start date of April 1, 2017.

On April 17, 2017, NYSOH redetermined your child's eligibility for financial assistance.

On April 18, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2017. This notice also stated that your child was ineligible for Child Health Plus because data sources showed that your child had Medicaid coverage through the New York City Human Resources Administration.

Also on April 18, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan would end on April 30, 2017. This was because she was no longer eligible to enroll in a Child Health Plus plan.

On May 25, 2017, you spoke to NYSOH's Account Review Unit and requested to appeal the April 18, 2017 eligibility determination insofar as your child was ineligible for and disenrolled from her Child Health Plus plan as well as the December 23, 2016 eligibility determination and disenrollment and the February 18, 2017 eligibility determination and enrollment notice.

On June 6, 2017, a certified application counselor updated your child's application for financial assistance.

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On June 7, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in a full price Child Health Plus plan, effective July 1, 2017.

Also on June 7, 2017, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a premium of \$260.76 per month and a plan enrollment start date of July 1, 2017.

On June 12, 2017, NYSOH redetermined your child's eligibility for financial assistance.

On June 13, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 per month premium.

Also on June 13, 2017, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a \$45.00 monthly premium.

On June 17, 2017, NYSOH redetermined your child's eligibility for financial assistance.

On June 18, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2017. This notice also stated that your child was ineligible for Child Health Plus because data sources showed that your child had Medicaid coverage through the New York City Human Resources Administration.

Also on June 18, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan would end on June 30, 2017. This was because she was no longer eligible to enroll in a Child Health Plus plan.

On June 26, 2017, you spoke to NYSOH's Account Review Unit and requested that the June 18, 2017 eligibility determination and disenrollment be addressed.

On July 11, 2017, NYSOH redetermined your child's eligibility for financial assistance.

On July 12, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 monthly premium, effective July 1, 2017.

Also on July 12, 2017, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a \$45.00 monthly premium and a plan enrollment start date of July 1, 2017.

On July 16, 2017, NYSOH issued a renewal notice stating that you would need to make any changes to your account between July 16, 2017 and August 15, 2017 in order for your child's new plan to be effective September 1, 2017.

On September 28, 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) You testified that your child previously had coverage through the New York City Human Resources Administration, but this coverage ended in June or July 2015. You testified that your child has not had coverage outside of NYSOH since that time.
- 2) Your NYSOH account reflects that your child first had Child Health Plus coverage through NYSOH beginning on September 1, 2015.
- 3) Your NYSOH account reflects that on July 20, 2016 you renewed your child's Child Health Plus coverage and enrolled your child into a child health plus plan with a \$45.00 premium effective September 1, 2016.
- 4) Your NYSOH account reflects that on December 31, 2016, your child was disenrolled from her Child Health Plus plan because the system determined that she had active Medicaid outside of NYSOH.
- 5) You testified that you did not receive the December 24, 2016 eligibility determination or the December 24, 2016 disenrollment notice advising you that your child's enrollment in her Child Health Plus plan was ending December 31, 2016.
- 6) The record reflects that you updated your account with a certified application counselor on February 17, 2017 and your child was found eligible for Child Health Plus and enrolled into a Child Health Plus plan that day with a plan enrollment start date of April 1, 2017.
- 7) You testified that you did receive the February 18, 2017 eligibility determination and the February 18, 2017 enrollment confirmation notice stating that your child's reenrollment in her Child Health Plus plan was effective April 1, 2017.
- 8) Your NYSOH account reflects that on April 30, 2017 your child was disenrolled from her Child Health Plus plan because the system determined that she had active Medicaid outside of NYSOH.

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- 9) The record reflects that you updated your account with a certified application counselor on June 6, 2017 and your child was found eligible for Child Health Plus and enrolled into a Child Health Plus plan that day with a plan enrollment start date of July 1, 2017.
- 10) The record reflects that on June 12, 2017, NYSOH redetermined your child's eligibility for financial assistance and reenrolled her into a Child Health Plus plan with a \$45.00 monthly premium as of January 1, 2017.
- 11) Your NYSOH account reflects that on June 30, 2017 your child was disenrolled from her Child Health Plus plan because the system determined that she had active Medicaid outside of NYSOH.
- 12) The record reflects that on July 11, 2017, NYSOH redetermined your child's eligibility for financial assistance and reenrolled her into a Child Health Plus plan with a \$45.00 monthly premium as of July 1, 2017.
- 13) On May 25, 2017, you spoke to NYSOH's Account Review Unit. As a result, incident [REDACTED] was created. A note from July 14, 2017 reflects that NYSOH reenrolled your child in her Child Health Plus plan from January 1, 2017 to June 30, 2017 and from July 1, 2017 to August 31, 2017. A note from August 29, 2017 within this incident indicates that at one time, your child's Social Security number was incorrectly entered into the account, which resulted in your child continuing to show as having active coverage through the New York City Human Resources Administration.
- 14) Also on May 25, 2017, incident [REDACTED] was created. A June 12, 2017 note within that incident reflects that your child was reinstated into her Child Health Plus plan as of January 1, 2017 with a \$45.00 per month premium.
- 15) On June 26, 2017, incident [REDACTED] was created. A July 11, 2017 note within that incident reflects that your child was reinstated into her Child Health Plus plan, effective July 1, 2017.
- 16) The enrollment tab within your NYSOH account reflects that your child was enrolled in a Child Health Plus plan with a \$45.00 premium from January 1, 2017 to June 30, 2017 and from July 1, 2017 to August 31, 2017.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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 e.g.*

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

Legal Analysis

The first issue is whether your appeal of NYSOH's December 23, 2016 eligibility determination, December 23, 2016 disenrollment notice, February 18, 2017 eligibility determination, and the February 18, 2017 enrollment confirmation notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your child's disenrollment from her Child Health Plus plan as well as her reenrollment effective date of April 1, 2017 on May 25, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of the notice of eligibility determination notice by NYSOH.

For an appeal to have been valid on the issue of your child's December 31, 2016 disenrollment from her Child Health Plus plan, an appeal should have been filed by February 22, 2017.

For an appeal to have been valid on the issue of your child's Child Health Plus reenrollment start date of April 1, 2017, an appeal should have been filed by April 19, 2017.

The record reflects that you filed your appeal on May 25, 2017, which is beyond the 60-day deadline.

Although you testified that you did not receive the December 24, 2016 eligibility determination notice and the December 24, 2016 disenrollment notice, you testified that you did receive the February 18, 2017 eligibility determination notice and the February 18, 2017 enrollment confirmation notice.

The record reflects that you were properly made aware of your appeal rights and responsibilities. Therefore, your appeal of the December 24, 2016 eligibility determination notice, December 24, 2016 disenrollment notice, February 18, 2017 eligibility determination notice, and February 18, 2017 enrollment confirmation notice is untimely and is **DISMISSED**.

The second issue is whether NYSOH properly determined that your child was ineligible for and disenrolled from her Child Health Plus plan, effective April 30, 2017.

The record reflects that on February 17, 2017 you enrolled your child in a Child Health Plus plan, effective April 1, 2017.

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On April 17, 2017, NYSOH determined that your child was no longer eligible for Child Health Plus as the system showed that she had coverage outside of NYSOH and was disenrolled from her Child Health Plus plan as of April 30, 2017.

The record reflects that on June 6, 2017 you reenrolled your child in a Child Health Plus plan, effective July 1, 2017.

On June 13, 2017, NYSOH updated your account to enroll your child into her Child Health Plus plan with a \$45.00 monthly premium as of January 1, 2017. This is supported by the enrollment section of your NYSOH account as well as the June 12, 2017 note contained in incident [REDACTED] and the July 14, 2017 note contained in incident [REDACTED].

Furthermore, on June 13, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 monthly premium, effective January 1, 2017 as well as a notice of enrollment confirmation stating that your child was enrolled in her Child Health Plus plan with a \$45.00 monthly premium effective January 1, 2017.

Since NYSOH conceded that your child should have remained eligible for and enrolled in Child Health Plus with a \$45.00 monthly premium, a discussion of the merits of the appeal of this issue is not necessary.

Therefore, the April 18, 2017 eligibility determination notice and the April 18, 2017 disenrollment notice are RESCINDED.

The third issue is whether NYSOH properly determined that your child was ineligible for and disenrolled from her Child Health Plus plan, effective June 30, 2017.

On June 17, 2017, NYSOH determined that your child was no longer eligible for Child Health Plus as the system showed that she had coverage outside of NYSOH and was disenrolled from her Child Health Plus plan as of June 30, 2017.

On July 11, 2017, NYSOH updated your account to enroll your child into her Child Health Plus plan with a \$45.00 monthly premium as of July 1, 2017. This is supported by the enrollment section of your NYSOH account as well as the July 11, 2017 note contained in incident [REDACTED] and the July 14, 2017 note contained in incident [REDACTED].

Furthermore, on July 12, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 monthly premium, effective July 1, 2017 as well as a notice of enrollment confirmation stating that your child was enrolled in her Child Health Plus plan with a \$45.00 monthly premium, effective July 1, 2017.

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Since NYSOH conceded that your child should have remained eligible for and enrolled in Child Health Plus with a \$45.00 monthly premium, a discussion of the merits of the appeal of this issue is not necessary.

Therefore, the June 26, 2017 eligibility determination notice and the June 26, 2017 disenrollment notice are RESCINDED.

Decision

The April 18, 2017 eligibility determination notice is RESCINDED.

The April 18, 2017 disenrollment notice is RESCINDED.

The June 26, 2017 eligibility determination notice is RESCINDED.

The June 26, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to ensure that your child is enrolled in her Child Health Plus plan with a \$45.00 monthly premium from January 1, 2017 to August 31, 2017.

Effective Date of this Decision: October 6, 2017

How this Decision Affects Your Eligibility

Your child should have remained enrolled in her Child Health Plus plan with a \$45.00 premium from January 1, 2017 through August 31, 2017.

Your case is being sent back to NYSOH to ensure that your child is enrolled in her Child Health Plus plan with a \$45.00 monthly premium from January 1, 2017 through August 31, 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.

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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
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- By fax: 1-855-900-5557

Summary

The April 18, 2017 eligibility determination notice is RESCINDED.

The April 18, 2017 disenrollment notice is RESCINDED.

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The June 26, 2017 eligibility determination notice is RESCINDED.

The June 26, 2017 disenrollment notice is RESCINDED.

Your child should have remained enrolled in her Child Health Plus plan with a \$45.00 premium from January 1, 2017 through August 31, 2017.

Your case is RETURNED to NYSOH to ensure that your child is enrolled in her Child Health Plus plan with a \$45.00 monthly premium from January 1, 2017 to August 31, 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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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.

אײַדיש (Yiddish)

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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.

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