



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

Notice of Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019680

[REDACTED]

Dear [REDACTED],

On September 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 2017 eligibility determination notice and March 23, 2017 enrollment confirmation notice.

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

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

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

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the 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 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019680



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 March 23, 2017 enrollment confirmation notice timely?

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

Did NY State of Health properly determine that your children's eligibility for and enrollment in their Child Health Plus plan began on May 1, 2017?

Procedural History

On December 5, 2016, NY State of Health (NYSOH) issued a notice stating that your children's Medicaid coverage through your local Department of Social Services was ending on February 28, 2017 and that you would need to contact NYSOH in order to update your children's application for health insurance.

On January 31, 2017, you updated your children's application for financial assistance with health insurance.

On February 1, 2017, NYSOH issued a notice stating that more information was needed to make a determination of your children's eligibility. The notice explained that the income information you provided NYSOH did not match what

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was obtained from state and federal data sources. You were asked to submit documentation of your household's income by February 15, 2017.

On February 13, 2017, you updated your children's application for financial assistance. That day, you uploaded income documentation to your NYSOH account.

On February 14, 2017, NYSOH issued a notice stating that more information was needed to make a determination of your children's eligibility. The notice explained that the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit documentation of your household's income by February 15, 2017.

On February 23, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On February 24, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by March 30, 2017.

On March 7, 2017 and March 9, 2017, you uploaded income documentation to your NYSOH account.

Also on March 9, 2017, you updated your children's application for financial assistance.

On March 10, 2017, NYSOH issued a notice stating that more information was needed to make a determination of your children's eligibility. The notice explained that the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit documentation of your household's income by March 24, 2017.

On March 13, 2017, you uploaded income documentation to your NYSOH account.

On March 21, 2017, NYSOH redetermined your household income based on the income documentation you submitted, updated the income information in your application based on this recalculation, and submitted an application on your behalf.

On March 22, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus for a limited time, effective May 1, 2017. This notice directed you to submit documentation of your household's income by May 20, 2017 in order to confirm your children's eligibility for financial assistance.

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On March 23, 2017, NYSOH issued a notice of enrollment confirmation, based on your plan selection on March 22, 2017, stating that your children were enrolled in their Child Health Plus plan with a plan enrollment start date of May 1, 2017.

On May 16, 2017, you uploaded income documentation to your NYSOH account.

Also on May 16, 2017, NYSOH reviewed the documentation and determined that it was insufficient to resolve the inconsistency in your account.

On May 17, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by June 4, 2017.

On May 19, 2017, you uploaded income documentation to your NYSOH account.

Also on May 19, 2017, NYSOH verified the income documentation you submitted and submitted an application on your behalf.

On May 20, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus, effective July 1, 2017.

Also on May 20, 2017, NYSOH issued a notice of enrollment confirmation stating that your children were enrolled in their Child Health Plus plan with a plan enrollment start date of May 1, 2017.

On June 9, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your children's Child Health Plus plan began on May 1, 2017 and not March 1, 2017 or in the alternative, that your oldest child was not found eligible for Medicaid for the months of March 2017 and April 2017.

On September 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for fourteen days to allow you to submit additional income documentation.

On September 14, 2017, NYSOH received via fax one of your paystubs and two of your spouse's paystubs. These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you are seeking to have your children's Child Health Plus plan begin on March 1, 2017 as your children have medical bills for the months of March 2017 and April 2017.
- 2) Your NYSOH account reflects that you first updated your account on January 31, 2017.
- 3) At the time of your January 31, 2017 application your children were ages [REDACTED] and [REDACTED].
- 4) On February 13, 2017, you uploaded income documentation to your NYSOH account consisting of four of your paystubs, four of your spouse's paystubs, your spouse's 2016 1099 from the Social Security Administration, and a letter dated February 13, 2017 signed by yourself.
 - a. Your four paystubs were from [REDACTED], the first was for pay date January 13, 2017 for a gross pay amount of \$647.54, the second was for pay date January 23, 2017 for a gross pay amount of \$820.10, the third was for pay date January 30, 2017 for a gross pay amount of \$740.54, the fourth was for pay date February 6, 2017 for a gross pay amount of \$993.34.
 - b. Your spouse's paystubs were from [REDACTED] and the first was for pay date January 13, 2017 for a gross pay amount of \$142.60, the second was for pay date January 20, 2017 for a gross pay amount of \$152.78, the third was for pay date January 27, 2017 for a gross pay amount of \$148.98, and the fourth was for pay date February 3, 2017 for a gross pay amount of \$133.20.
 - c. The 2016 1099 was for your oldest child and indicates that in 2016 she received \$588.00 from the Social Security Administration.
 - d. The letter signed by yourself is dated February 13, 2017 and indicates that your children receive support from yourself and your spouse and that your only child with income is your oldest child who receives \$49.00 per month in Social Security dependent's benefits.
- 5) On February 23, 2017, NYSOH reviewed the income documentation you submitted on February 13, 2017 and determined that this was insufficient as four consecutive weeks of paystubs from February 13, 2017 were required.
- 6) On March 7, 2017, you uploaded income documentation to your NYSOH account consisting of one of your spouse's paystubs and a letter from the Social Security Administration stating that as of January 2017 your spouse would begin receiving \$751.00 per month in Social Security benefits.

- 7) On March 9, 2017, you uploaded income documentation to your NYSOH account consisting of three of your paystubs and two of your spouse's paystubs.
 - a. Your paystubs are for pay date February 13, 2017 for a gross pay amount of \$520.10, the second is for pay date February 17, 2017 for a gross pay amount of \$918.02; the third is for pay date February 27, 2017 for a gross pay amount of \$336.61.
 - b. Your spouse's paystubs are for pay date February 10, 2017 for a gross pay amount of \$132.17 and February 17, 2017 for a gross pay amount of \$101.22.
- 8) On March 13, 2017, you uploaded income documentation to your NYSOH account consisting of a letter dated March 8, 2017 for the Social Security Administration stating that your oldest child receives \$49.20 in Social Security benefits each month.
- 9) On March 16, 2017, NYSOH reviewed the income documentation you submitted on March 7, 2017, March 9, 2017, and March 13, 2017 and determined that this was insufficient as you and your spouse had not submitted enough paystubs.
- 10) On March 21, 2017, NYSOH updated the income in your application based on the income documentation you submitted on March 7, 2017, March 9, 2017, and March 13, 2017.
- 11) On March 22, 2017, you contacted NYSOH and spoke to the Account Review Unit. As a result, incident [REDACTED] was created. The notes reflect that at that time you were calling because of issues you were having with document verification and that your children were not covered for March 2017.
- 12) On May 16, 2017, you uploaded income documentation to your NYSOH account consisting of three of your spouse's paystubs. The first is for pay date March 3, 2017 for a gross pay amount of \$241.53, the second is for pay date March 10, 2017 for a gross pay amount of \$130.95, the third is for pay date March 17, 2017 for a gross pay amount of \$286.75.
- 13) On May 16, 2017, NYSOH reviewed the income documentation you submitted on March 16, 2017 and determined that this was insufficient as you had not submitted additional recent paystubs.
- 14) On May 19, 2017, you uploaded income documentation to your NYSOH account consisting of six of your paystubs. The first is for pay date March 6, 2017 for a gross pay amount of \$1,027.77, the second is for pay date March 13, 2017 for a gross pay amount of \$906.21, the third is for pay

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date March 20, 2017 for a gross pay amount of \$714.65, the fourth is for pay date March 27, 2017 for a gross pay amount of \$1097.78, the fifth is for pay date April 3, 2017 for a gross pay amount of \$583.14, the sixth is for pay date April 10, 2017 for a gross pay amount of \$648.36.

15) On May 19, 2017, NYSOH verified the income documentation you submitted.

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)).

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

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Child Health Plus – Income Verification

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

Timely Notice of Child Health Plus Eligibility

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

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

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

Legal Analysis

The first issue is whether your appeal of NYSOH's March 23, 2017 enrollment confirmation notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your children's eligibility for and enrollment in their Child Health Plus plan on June 9, 2017.

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

For an appeal to have been valid on the issue of your children's enrollment start date in their Child Health Plus plan, an appeal should have been filed by May 21, 2017. The record reflects that you filed your appeal on June 9, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record reflects that you contacted NYSOH on March 22, 2017 regarding issues you were having with document verification and that your children were not covered for March 2017. As this contact was well within the 60-day timeframe in which to file an appeal, your appeal is considered timely.

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

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

You updated your household's application for financial assistance with health insurance on January 31, 2017. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household income.

On February 13, 2017, you uploaded income documentation to your NYSOH. This consisted of four weekly paystubs for yourself for pay dates January 13, 2017, January 23, 2017, January 30, 2017, and February 6, 2017, and four weekly paystubs for your spouse for pay dates January 13, 2017, January 20, 2017, January 27, 2017, and February 3, 2017. NYSOH deemed these paystubs invalid as the January 13, 2017 paystubs were thirty-one days prior to February 13, 2017.

However, the record reflects that these paystubs were four recent consecutive paystubs, and were sufficient to be able to determine your and your spouse's income at that time.

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Therefore, your application was complete as of February 13, 2017 for purposes of issuing an eligibility determination.

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

NYSOH has never determined your children's eligibility based on your application which was complete as of February 13, 2017, therefore, there was no timely eligibility determination notice issued based on this application.

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

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

You submitted sufficient documentation of your household's income on February 13, 2017. Had NYSOH properly verified your income documentation, your children's eligibility could have been determined as soon as February 13, 2017. Had NYSOH issued an eligibility determination on February 13, 2017, you would have been able to select a Child Health Plus plan for your children as soon as February 13, 2017.

Were you able to select a Child Health Plus plan for your children as of February 13, 2017, your children's eligibility for and enrollment in their Child Health Plus plan would have taken effect on the first day of the first month following after February 13, 2017; that is, on March 1, 2017.

Therefore, the March 22, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for Child Health Plus effective March 1, 2017. The March 23, 2017 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective March 1, 2017.

Your case is RETURNED to NYSOH to enroll your children in their Child Health Plus plan as of March 1, 2017.

Decision

The March 22, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for Child Health Plus effective March 1, 2017.

The March 23, 2017 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective March 1, 2017.

Your case is RETURNED to NYSOH to enroll your children in their Child Health Plus plan as of March 1, 2017.

Effective Date of this Decision: October 4, 2017

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in their Child Health Plus plan should have begun as of March 1, 2017.

Your case is being sent back to NYSOH to enroll your children in their Child Health Plus plan as of March 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

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- 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 22, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for Child Health Plus effective March 1, 2017.

The March 23, 2017 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective March 1, 2017.

Your children's eligibility for and enrollment in their Child Health Plus plan should have begun as of March 1, 2017.

Your case is RETURNED to NYSOH to enroll your children in their Child Health Plus plan as of March 1, 2017.

Legal Authority

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).

We are issuing this determination in accordance with 45 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).

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، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

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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