



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

Notice of Decision

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020225

[REDACTED]

Dear [REDACTED],

On September 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 2017 eligibility determination notice, the June 18, 2017, disenrollment notice, the July 4, 2017, eligibility determination notice, and the July 4, 2017, enrollment notice

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

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

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

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

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020225



Issues

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your two oldest children's eligibility for and enrollment in Child Health Plus terminated as of June 30, 2017?

Did NY State of Health (NYSOH) properly determine that your eligibility for and enrollment in your Essential Plan was effective August 1, 2017?

Procedural History

On May 16, 2016, NYSOH received you and your two oldest children's application for financial assistance with health insurance.

On May 17, 2016, NYSOH issued an eligibility determination notice, based on your May 16, 2016, application, stating that you were eligible to enroll in the Essential Plan, and your two oldest children were eligible to enroll in Child Health Plus for a premium responsibility of \$9.00 per month each, effective July 1, 2016.

On May 17, 2016, NYSOH issued an enrollment confirmation notice, confirming your selection of an Essential Plan and a Child Health Plus plan, with an enrollment start date of July 1, 2016.

On May 4, 2017, NYSOH issued a notice that it was time to renew your and your two oldest children's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your and your children's health coverage, and that you needed to update your account by June 15, 2017, or you might lose the financial assistance you were currently receiving.

No updates were received by June 15, 2017, and NYSOH redetermined you and your two oldest children's eligibility for financial assistance with your health insurance.

On June 18, 2017, NYSOH issued an eligibility determination notice stating that effective July 1, 2017 your two oldest children were no longer eligible for health insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

On June 18, 2017, NYSOH issued an eligibility determination notice stating you were newly eligible to purchase a qualified health plan at full cost, effective July 1, 2017. The notice stated this was because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualify to receive financial assistance to help pay for your health coverage.

On June 18, 2017, NYSOH issued a disenrollment notice stating that your two oldest children's coverage through their Child Health Plus plan and your coverage through the Essential Plan would end June 30, 2017, because you did not renew your health insurance coverage.

On July 3, 2017, NYSOH received you and your two oldest children's updated application for health insurance. That day, a preliminary eligibility determination notice was made stating you were eligible for the Essential Plan, and you enrolled yourself into a plan that day. A preliminary eligibility determination was also prepared stating that your two oldest children were eligible for Child Health Plus and you reenrolled your children into a Child Health Plus plan.

Also on July 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan and your two oldest children's Child Health Plus plan and insofar as it did not begin July 1, 2017.

On July 4, 2017, NYSOH issued a notice of eligibility determination, based on your July 3, 2017, application, stating that you were eligible for the Essential Plan, and your two oldest children were eligible to enroll in Child Health Plus, effective August 1, 2017.

Also on July 4, 2017, NYSOH issued a notice of enrollment, based on your plan selection on July 3, 2017, stating that your Essential Plan and your two oldest children's Child Health Plus plan coverage would start on August 1, 2017.

On September 25, 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 you are appealing your two oldest children's disenrollment from their Child Health Plus plan for the month of July 2017.
- 2) You testified that you are seeking to have coverage in the Essential Plan for July 2017.
- 3) You testified that you previously received all of your notices from NYSOH by electronic alert.
- 4) You testified that you did not receive any alert by email indicating that there was a new notice on your NYSOH account in May 2017.
- 5) You testified you did not receive any renewal notice by regular mail.
- 6) The May 4, 2017, renewal notice does not indicate that your two oldest children's Child Health Plus plan enrollment would be terminated if you failed to respond. The notice does state that your oldest children's financial eligibility may end.
- 7) You testified that you first became aware that your children had been disenrolled from their Child Health Plus plan in early July after going to the doctor's office and being told your plan card was declined.
- 8) You testified that when you became aware that your children had been disenrolled you contacted NYSOH to reenroll them.
- 9) On July 3, 2017, NYSOH received your and your children's updated application and Essential Plan and Child Health Plus plan selections.
- 10) You were determined eligible for the Essential Plan on May 16, 2016, with an effective date of July 1, 2016.

11) 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

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information

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accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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).

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York’s Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York’s Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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>).

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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH provided you proper and adequate notice that your two oldest children's eligibility for and enrollment in Child Health Plus terminated as of June 30, 2017.

Your two oldest children were originally found eligible for Child Health Plus and enrolled effective July 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's May 4, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice asked that you update the

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information in your account by June 15, 2017 or the financial assistance your children were receiving may end.

No updates were made to your NYSOH account prior to June 15, 2017.

On June 18, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective June 30, 2017. According to the eligibility determination issued on June 18, 2017, this was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The May 4, 2017, renewal notice does not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your children's coverage through their Child Health Plus plan would end in the June 18, 2017 eligibility determination and June 18, 2017 disenrollment notices.

The record indicates that on July 3, 2017, you updated your NYSOH account and submitted an updated application for your two children. You testified that you updated the account as soon as you were made aware by your doctor's office they had been disenrolled from coverage.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's June 18, 2017, notice terminating your children's Child Health Plus eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until August 1, 2017, at the earliest.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your two oldest children for the month of July 2017. The June 18, 2017, eligibility determination notice, and June 18, 2017 disenrollment notice are RESCINDED insofar as they apply to your oldest children.

Your case is RETURNED to NYSOH to reinstate your two oldest children into their Child Health Plus plan for the month of July 2017, and to notify you accordingly.

The second issue under review is whether NYSOH properly determined that your eligibility for and enrollment in your Essential Plan was effective August 1, 2017.

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You were originally found eligible for the Essential Plan effective July 1, 2016, and were enrolled in a plan.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's May 4, 2017, renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by June 15, 2017, or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your Essential Plan effective June 30, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on July 3, 2017, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Had the information been submitted at that time, your eligibility for and enrollment in the Essential Plan would have begun on July 1, 2017.

Therefore, the July 4, 2017 notice of eligibility and July 4, 2017, notice of enrollment are MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective July 1, 2017.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan, effective July 1, 2017.

Decision

The June 18, 2017, eligibility determination notice is RESCINDED.

The June 18, 2017, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your two oldest children into their Child Health Plus plan for the month of July 2017, and to notify you accordingly.

The July 4, 2017, notice of eligibility is MODIFIED to state that your eligibility for the Essential Plan was effective July 1, 2017.

The July 4, 2017, notice of enrollment is MODIFIED to state that your enrollment in the Essential Plan was effective July 1, 2017.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan, effective July 1, 2017.

Effective Date of this Decision: October 04, 2017

How this Decision Affects Your Eligibility

Your two oldest children should not have been terminated from their Child Health Plus plan June 30, 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your two oldest children into their Child Health Plus for the month of July 2017. NYSOH will notify you once this has been completed.

Your eligibility for and enrollment in the Essential Plan should have been effective as of July 1, 2017.

Your case is being sent back to NYSOH to reenroll you in your Essential Plan as of July 1, 2017.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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.

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).

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

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

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

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

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

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

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- 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

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Summary

The June 18, 2017, eligibility determination notice is RESCINDED.

The June 18, 2017, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your two oldest children into their Child Health Plus plan for the month of Jul, 2017, and to notify you accordingly.

The July 4, 2017, notice of eligibility is MODIFIED to state that your eligibility for the Essential Plan was effective July 1, 2017.

The July 4, 2017, notice of enrollment is MODIFIED to state that your enrollment in the Essential Plan was effective July 1, 2017.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan, effective July 1, 2017.

Your two oldest children should not have been terminated from their Child Health Plus plan June 30, 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your two oldest children into their Child Health Plus for the month of July 2017. NYSOH will notify you once this has been completed.

Your eligibility for and enrollment in the Essential Plan should have been effective as of July 1, 2017.

Your case is being sent back to NYSOH to reenroll you in your Essential Plan as of July 1, 2017.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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)

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।

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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&etumi ama wo obi a okyer& 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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