



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

Notice of Decision

Decision Date: October 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020351

[REDACTED]

Dear [REDACTED],

On September 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 2017 eligibility determination and disenrollment notices, and June 20, 2017 eligibility determination and 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 2, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000020351

[REDACTED]

Issues

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

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

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

Procedural History

On June 14, 2016, NYSOH received your updated application for financial assistance with health insurance.

On June 15, 2016, NYSOH issued an eligibility determination notice, based on your June 14, 2016 application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, and your child was eligible to enroll in CHP with a \$9.00 monthly premium, effective July 1, 2016.

On June 16, 2016, NYSOH issued an enrollment confirmation notice, confirming your selection of an Essential Plan and a CHP plan, with an enrollment start date for both plans of July 1, 2016.

On May 4, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether

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you would and your child qualify for financial help paying for your 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 your eligibility for financial assistance with health insurance.

On June 18, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2017. The notice stated that you were not eligible for financial assistance because you had not responded to the renewal notice.

That same day, NYSOH issued a discontinuance notice, stating that your child was no longer eligible for health insurance through NYSOH, effective July 1, 2017, because you did not respond to the renewal notice.

Also on June 18, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan was terminated as of June 30, 2017, and your child's enrollment in his CHP plan was also terminated as of June 30, 2017.

On June 19, 2017, you updated your application for financial assistance with health insurance through NYSOH.

On June 20, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, and your son was eligible to enroll in CHP with a \$9.00 monthly premium, for a limited time, effective August 1, 2017. The notice directed you to submit documentation of your income by August 18, 2017 for your child's application, and by September 17, 2017 for your application.

Also on June 20, 2017, NYSOH issued an enrollment notice confirming your selection of your Essential Plan and your child's CHP plan, with a plan enrollment start date of August 1, 2017 for both plans.

On July 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan, and your child's enrollment in his CHP plan, insofar as they did not begin on July 1, 2017.

On September 27, 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 were determined eligible for the Essential Plan, and your child was determined eligible for CHP on June 14, 2016, with an effective date of coverage of July 1, 2016.
- 2) You testified that you receive your notices from NYSOH by regular mail.
- 3) You testified that you believe you did receive a notice in the mail telling you that you needed to update your application to renew your Essential Plan eligibility, and your child's CHP eligibility, or your coverage could end.
- 4) Your NYSOH account reflects that a renewal notice was issued to you on May 4, 2017 to the mailing address on file.
- 5) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 6) The May 4, 2017 renewal notice does not indicate that your child's CHP plan enrollment would be terminated if you failed to respond. The notice does state that your child's financial eligibility may end.
- 7) You testified that you contacted NYSOH to renew your application on behalf of yourself and your child on June 19th or 20th, and that you did so because you received a letter stating that you needed to renew your application.
- 8) The record reflects that on June 19, 2017, NYSOH received your updated application for health insurance.
- 9) You reenrolled into an Essential Plan, and reenrolled your child into a CHP plan, on June 19, 2017.
- 10) You testified that the NYSOH representative you spoke with when you renewed your application for insurance assured you several times that you would have coverage for July 2017, and that there would be no gap in your coverage.
- 11) You testified that you made premium payments for your Essential Plan and your child's CHP plan for the month of July 2017, and that these payments were credited to a future month.

12) You testified that you are seeking to have coverage in the Essential Plan for July 1, 2017, and are also appealing your child's disenrollment from his CHP plan for the month of July 2017.

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

Applicable Law and Regulations

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every twelve months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage, 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 twelve 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

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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)).

Child Health Plus

A child who meets the eligibility requirements for CHP 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 CHP, 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 CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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 accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

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NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow CHP 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 CHP 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 your eligibility for, and enrollment in, your Essential Plan was effective August 1, 2017.

You were originally found eligible for the Essential Plan effective July 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan 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 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.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. Additionally, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

You testified that you believe you did receive the renewal notice, and that you contacted NYSOH on June 19th or 20th to update your account. The record shows that on June 19, 2017, which was after the June 15th, 2017 deadline stated in the renewal notice, you updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan.

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

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

Since you selected your Essential Plan on June 19, 2017, it must take effect on the first day of the following after June; that is, on August 1, 2017.

You testified that, when you completed your renewal over the phone with a NYSOH representative, you were assured that you would have coverage for the month of July 2017. Though you may have been given this information, it was inaccurate. Based on when you updated your account (June 19th, 2017), you were not eligible to have your Essential Plan coverage begin on July 1, 2017. Additionally, you had been properly notified in the May 4, 2017 renewal notice that you needed to update your account by June 15, 2017 in order to avoid losing your coverage, but did not update your application within that timeframe.

Therefore, NYSOH's June 20, 2017 eligibility determination and enrollment confirmation notices, insofar as they begin your eligibility for, and enrollment in, the Essential Plan on August 1, 2017, are AFFIRMED.

The second issue under review is whether NYSOH provided you proper and adequate notice that your child's eligibility for, and enrollment in, CHP terminated as of June 30, 2017.

Your child was originally found eligible for CHP and enrolled in a plan effective July 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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 child qualified for financial help paying for his coverage. The notice asked that you update the information in your account by June 15, 2017, or the financial assistance your child was receiving may end.

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).

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 child's coverage in his CHP plan would end, effective June 30, 2017. According to the discontinuance notice also 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 CHP 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. Notices mailed by NYSOH are considered received five days after the date on the notice. The May 4, 2017 renewal notice does not indicate that your child's CHP plan enrollment would be terminated if you failed to respond. You were first informed that your child's coverage through his CHP plan would end in the June 18, 2017 eligibility determination and disenrollment notices.

The record indicates that on June 19, 2017, you updated your NYSOH account and submitted an updated application for your children. When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from that change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's CHP 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.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child for the month of July 2017.

The June 18, 2017 disenrollment notice is MODIFIED to remove reference to your child's disenrollment from his CHP plan. Likewise, the June 18, 2017 discontinuance notice, stating that your child is no longer eligible to enroll in coverage as of July 1, 2017, is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP coverage for the month of July 2017.

Decision

The June 20, 2017 eligibility determination notice is AFFIRMED.

The June 20, 2017 enrollment confirmation notice is AFFIRMED.

The June 18, 2017 discontinuance notice is RESCINDED.

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).

The June 18, 2017 disenrollment notice is MODIFIED to remove any reference to your child's disenrollment from his CHP plan.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan coverage for the month of July 2017.

Effective Date of this Decision: October 2, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Plan is August 1, 2017.

Your child should not have been terminated from his CHP plan in July 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the month of July 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for your child's CHP 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.

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:

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).

- 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
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- By fax: 1-855-900-5557

Summary

The June 20, 2017 eligibility determination notice is AFFIRMED.

The June 20, 2017 enrollment confirmation notice is AFFIRMED.

The June 18, 2017 discontinuance notice is RESCINDED.

The June 18, 2017 disenrollment notice is MODIFIED to remove any reference to your child's disenrollment from his CHP plan.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan coverage for the month of July 2017.

This decision does not change your eligibility.

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The effective date of your Essential Plan is August 1, 2017.

Your child should not have been terminated from his CHP plan in July 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the month of July 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for your child's CHP 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 مجانًا.

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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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