



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

## Notice of Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021277

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On October 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 9, 2017 eligibility determination 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 NY State of Health 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.

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P.O. Box 11729  
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## Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021277

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did NYSOH properly determine that you were eligible for advance payments of the premium tax credit up to \$93.00 per month, effective September 1, 2017?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

Did NY State of Health properly determine that you were not eligible for the Essential Plan?

## Procedural History

On January 7, 2016, NYSOH issued an eligibility determination notice, based on your January 6, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016. You were subsequently enrolled in Essential Plan 1 with a \$20.00 monthly premium with a plan start date of February 1, 2016. This was based on your attested household income of \$20,280.00.

On December 3, 2016, NYSOH issued a renewal notice stating that you continued to qualify for health care coverage under the Essential Plan with a low monthly premium. This was based your household size and on federal and state data sources that showed your income was between \$17,820.00 and \$23,760.00.

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On December 17, 2016, NYSOH issued a plan enrollment notice stating that you were enrolled in Essential Plan 1 with a \$20.00 monthly premium with a plan enrollment start date of February 1, 2017.

On June 18, 2017, NYSOH issued a notice that it was time to renew your health insurance. 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 health coverage, and that you needed to update your account by July 15, 2017 or you might lose the financial assistance you were currently receiving.

No updates were received by July 15, 2017, and NYSOH redetermined your eligibility for financial assistance with health insurance.

On July 17, 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 August 1, 2017. The notice stated that you were not eligible for financial assistance because you did not respond to the renewal notice.

Also on July 17, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end effective July 31, 2017.

On August 5, 2017, you submitted an updated application for financial assistance.

On August 6, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective September 1, 2017.

On August 8, 2017, you submitted an updated application for financial assistance.

On August 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$93.00 in advance premium tax credit (APTC) to help pay for your health coverage, effective September 1, 2017. That notice also stated that you were not eligible for cost-sharing reductions, Medicaid or the Essential Plan because your household income of \$45,000.00 was over the allowable income limits for those programs.

Also on August 9, 2017, NYSOH issue a notice confirming that on August 8, 2017 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination of August 8, 2017 insofar as it found you eligible for APTC and not eligible for the Essential Plan.

On August 15, 2017, NYSOH issued an eligibility determination notice stating that you were granted Aid-to-Continue until a decision is made on your appeal. That notice stated you were eligible, for a limited time, for the Essential Plan with a \$20.00 monthly premium effective August 1, 2017. You were subsequently re-enrolled in your Essential Plan 1 with a \$20.00 monthly premium with a plan enrollment start date of August 1, 2017.

On September 1, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan 1 ended on August 1, 2017 because you did not pay your insurance bill by the payment deadline.

On September 23, 2017, NYSOH issued a plan enrollment notice stating that you were re-enrolled in Essential Plan 1 with a \$20.00 monthly premium with an enrollment start date of November 1, 2017.

On October 26, 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) According to your NYSOH account and your testimony, you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking health insurance for yourself.
- 3) According to your NYSOH account and your testimony, you receive your notices from NYSOH by regular mail.
- 4) According to your NYSOH account, on December 3, 2016, you were systematically renewed and re-enrolled in the Essential Plan effective February 1, 2017. This was based on state and federal data sources indicating your household income was between \$17,820.00 and \$23,760.00.
- 5) According to your NYSOH account, on June 18, 2017, NYSOH issued a renewal notice requesting you to update your account by July 15, 2017. The notice instructed you that, if you missed this deadline, you might lose the financial assistance you were presently receiving.

- 6) You testified that you did not receive the June 18, 2017 notice telling you that you needed to update your application by July 15, 2017, in order to continue your Essential Plan eligibility.
- 7) According to your NYSOH account, no notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 8) According to your NYSOH account, your Essential Plan coverage ended on July 31, 2017, because you failed to renew your application within the required timeframe.
- 9) On August 8, 2017, you submitted an updated application for financial assistance and attested to an expected 2017 annual income of \$45,000.00 that you earn from your employment. You testified that this was an accurate estimate of your income at that time.
- 10) According to your NYSOH account and your testimony, you will not be taking any deductions on your 2017 income tax return.
- 11) You testified that according to your Essential Plan card, your insurance coverage should be in effect until the end of January 2018.
- 12) According to your NYSOH account, you were granted Aid-to-Continue and were re-enrolled in your Essential Plan effective November 1, 2017 pending the outcome of this appeal.
- 13) According to your NYSOH account and your testimony, you live in K [REDACTED], New York.
- 14) You testified that you want to be redetermined eligible for the Essential Plan and not for APTC.

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

## **Applicable Law and Regulations**

### Essential Plan: Twelve months of Continuous Enrollment

New York State has elected to adopt the Medicaid policy regarding 12 months of continuous enrollment (42 CFR § 600.320(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>).

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This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. 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(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (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>)

#### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for

2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036.).

For annual household income in the range of at least 300% but less than 400% of the 2016 FPL, the expected contribution in 2017 is 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

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In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan 1 was terminated effective July 31, 2017.

Initially, it is noted that your enrollment in an Essential Plan took effect on February 1, 2016, and on December 3, 2016 was systematically renewed with a plan effective date of February 1, 2017.

New York State has elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. 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, lacks state residence, fails to provide a valid social security number, provides inaccurate information that would affect eligibility when requesting or renewing health coverage, fails to make the applicable premium payment, or has a change in circumstances.

Generally, if none of the events noted above occur, the enrollee's or enrollees' coverage will continue until the end of the 12-month period from the effective date of the initial eligibility determination or from the effective date of renewal.

The record reflects that the December 3, 2016 renewal of your eligibility for the Essential Plan was based on income data received from state and federal data sources. On June 18, 2017, NYSOH re-ran your eligibility and there was not

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enough information from state and federal data sources to determine your eligibility and requested that you update your account by July 15, 2017.

Because there was no timely response to this June 18, 2017 notice, you were terminated from your Essential Plan effective July 31, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, 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 the requirement that the information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record reflects that your initial application of January 6, 2016 in which you were determined eligible for the Essential plan was based on an attested household income of \$20,280.00. The record shows that on August 8, 2017, you updated the information in your NYSOH account. Specifically, the August 8, 2017, updated application listed your household income as \$45,000.00 which you testified was correct. The record reflects that you experienced a change in circumstances in that your household income changed from \$20,280.00 to \$45,000.00. This significant change in income constitutes a disqualifying event (change in circumstances) and resulted in NYSOH redetermining you eligible to receive APTC of \$93.00 per month, effective September 1, 2017.

Therefore, the issue turns to whether NYSOH properly determined that you were eligible for an APTC of up to \$93.00 per month, effective September 1, 2017.

As stated above, the application that was updated on August 8, 2017 was adjusted to list an annual household income of \$45,000.00 and the eligibility determination relied upon that information.

You are in a one-person household for the purposes of this analysis. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

You reside in Kings County, where the second lowest cost silver plan available for an individual through NYSOH costs \$456.46 per month.

An annual income of \$45,000.00 is 378.78% of the 2016 FPL for a one-person household. At 378.76% of the FPL, the expected contribution to the cost of the health insurance premium is 9.69% of income, or \$363.37 per month.

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The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$456.46 per month) minus your expected contribution (\$363.37 per month), which equals \$93.09 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$93.00 per month in APTC.

The third issue is whether you were properly found ineligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$45,000.00 is 378.76% of the applicable 2016 FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The fourth issue under review is whether NYSOH properly determined that you were ineligible for the Essential Plan, effective September 1, 2017.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your August 8, 2017 application, the relevant 2016 FPL was \$11,880.00 for a one-person household. Since an annual household income of \$45,000.00 is 378.79% of the 2016 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

Therefore, the August 9, 2017 eligibility determination notice is AFFIRMED.

## **Decision**

The August 9, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** November 29, 2017

## **How this Decision Affects Your Eligibility**

You remain eligible for up to \$93.00 per month in APTC in 2017.

You are ineligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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

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

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

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

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The August 9, 2017 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$93.00 per month in APTC in 2017.

You are ineligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]

## **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)**

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### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### **বাংলা (Bengali)**

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এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

### **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

### **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

### **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

### **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

### **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

### **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

### **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

### **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

### **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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