



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

Notice of Decision

Decision Date: January 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023106

[REDACTED]

On December 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 29, 2017 discontinuance and disenrollment notices, the August 9, 2017 eligibility determination, the August 12, 2017 discontinuance and disenrollment notices, the August 26, 2017 denial notice, the August 30, 2017 eligibility determination notice, the September 22, 2017 discontinuance and disenrollment notices, and the October 5, 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 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
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Decision

Decision Date: January 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023106

[REDACTED]

Issues

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

Was your appeal of NY State of Health's (NYSOH) July 29, 2017 disenrollment notice timely?

Did NYSOH properly determine that you were eligible for the Essential Plan and not Medicaid, effective September 1, 2017?

Procedural History

On March 4, 2017, NYSOH issued a notice of eligibility determination, based on the March 3, 2017 application, stating that you were eligible for Medicaid, effective March 1, 2017.

Also on March 4, 2017, NYSOH issued a notice of enrollment, stating that you were enrolled in a Medicaid Managed Care plan, effective April 1, 2017.

On June 30, 2017, NYSOH issued a notice of eligibility determination, based on the June 29, 2017 application, stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until February 28, 2018 because certain individuals who qualify for Medicaid get coverage for twelve continuous months from the date they were last determined eligible.

Also on June 30, 2017, NYSOH issued a notice confirming that you updated your address to [REDACTED].

On July 20, 2017, an application for financial assistance with health insurance was run on your behalf.

On July 21, 2017, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective July 1, 2017.

Also on July 21, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a Medicaid Managed Care plan, effective June 1, 2017.

On July 29, 2017, NYSOH issued a discontinuance notice stating that effective July 29, 2017 you were no longer eligible for health insurance through NYSOH because notices were sent to you that were returned to NYSOH as undeliverable.

Also on July 29, 2017, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end on July 31, 2017 because you were no longer eligible to enroll in health insurance through NYSOH.

On August 4, 2017, you submitted an updated application for financial assistance with health insurance.

On August 5, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were directed to provide proof of household income by August 19, 2017.

Also on August 5, 2017, NYSOH issued a notice confirming that you updated your address.

On August 8, 2017, you submitted income documentation.

Also on August 8, 2017, your documentation was verified and an application was run on your behalf.

On August 9, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible for the Essential Plan, effective September 1, 2017.

Also on August 9, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in the Essential Plan, effective September 1, 2017.

On August 11, 2017, an application for financial assistance was run on your behalf.

On August 12, 2017, NYSOH issued a discontinuance notice stating that effective September 2, 2017, you were no longer eligible for health insurance through NYSOH because notices were sent to you that were returned to NYSOH as undeliverable.

Also on August 12, 2017, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end on September 1, 2017 because you were no longer eligible to enroll in health insurance through NYSOH.

On August 23, 2017, NYSOH issued a notice confirming that you updated your address to [REDACTED]

On August 24, 2017, you submitted an updated application for financial assistance with health insurance.

On August 25, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were directed to provide proof of household income by September 8, 2017.

Also on August 25, 2017, NYSOH issued a notice confirming that you updated your address.

On August 26, 2017, NYSOH issued a notice stating that you are not qualified to enroll through NYSOH because notices were sent to you that were returned to NYSOH as undeliverable.

On August 29, 2017, you submitted an updated application for financial assistance with health insurance.

On August 30, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible for the Essential Plan, effective October 1, 2017.

Also on August 30, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in the Essential Plan, effective October 1, 2017.

Also on August 30, 2017, NYSOH issued a notice confirming that you updated your address.

On September 21, 2017, an application for health insurance was run on your behalf.

On September 22, 2017, NYSOH issued a discontinuance notice stating that effective October 2, 2017, you were no longer eligible for health insurance

through NYSOH because notices were sent to you that were returned to NYSOH as undeliverable.

Also on September 22, 2017, NYSOH a disenrollment notice stating that your coverage in your Essential Plan would end on October 1, 2017 because you were no longer eligible to enroll in health insurance through NYSOH.

On October 4, 2017, you submitted an updated application for financial assistance with health insurance. That day, a preliminary determination was prepared, stating that you were eligible for the Essential Plan for a limited time, effective November 1, 2017.

Also on October 4, 2017, you spoke to NYSOH's Account Review Unit and filed an appeal insofar as your coverage had been repeatedly terminated.

On October 5, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan for a limited time, effective November 1, 2017. You were directed to produce income documentation by January 2, 2017.

Also on October 5, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in the Essential Plan, effective November 1, 2017.

On December 5, 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 support the following findings of fact:

- 1) You were found eligible for Medicaid effective March 1, 2017.
- 2) You were disenrolled from Medicaid and you Medicaid Managed Care plan effective July 29, 2017, September 1, 2017, and October 1, 2017.
- 3) On June 29, 2017, you updated your address from [REDACTED] to [REDACTED].
- 4) The June 30, 2017 address confirmation notice was mailed to [REDACTED]. The June 30, 2017 eligibility notice, the July 21, 2017 eligibility and enrollment confirmation notices, the August 5, 2017 and August 23, 2017 address confirmation notices, and the August 12 discontinuance and disenrollment notices were mailed to [REDACTED].

- 5) The June 30, 2017 notices were returned to NYSOH as undeliverable on July 24, 2017, and uploaded into your account on August 1, 2017.
- 6) The July 21, 2017 eligibility determination and enrollment confirmation notices were returned to NYSOH as undeliverable on August 2, 2017 and uploaded into your account on August 14, 2017.
- 7) The August 5, 2017 address confirmation notice was returned to NYSOH as undeliverable on August 14, 2017, and uploaded into your account on August 22, 2017.
- 8) The August 12, 2017 discontinuance and disenrollment notices were returned to NYSOH as undeliverable on August 21, 2017, and uploaded into your account on August 26, 2017.
- 9) The August 23, 2017 address confirmation notice was returned to NYSOH as undeliverable on September 1, 2017, and September 19, 2017. It was uploaded into your account on September 9, 2017, and September 21, 2017.
- 10) You testified that you have lived at [REDACTED] since April 2017, and that you have not had problems receiving mail, except for NYSOH correspondence. You also testified that you have received other correspondence from NYSOH at that address.
- 11) The record reflects that an application was run on August 8, 2017, and that application listed a household income of \$17,008.94.
- 12) The record reflects that applications were run on August 29, 2017 and October 4, 2017, which listed a household income of \$17,505.93.
- 13) You testified that you want to avoid a gap in coverage because you do not want to pay a tax penalty.

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

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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)).

Medicaid

Most individuals determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Under 42 CFR § 435.403 Medicaid must be provided to “eligible residents of the State” (42 CFR § 435.403(a)). A person shall not be eligible for Medicaid unless he or she is a resident of the state, or, while temporarily in the state, requires immediate medical care which is not otherwise available (N.Y. Soc. Serv. Law § 366(1)(d)(1)).

Legal Analysis

The first issue is whether your appeal of NYSOH's July 29, 2017 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding a gap in coverage for August through October 2017 on October 4, 2017.

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

For an appeal to have been valid on the issue of the disenrollment from your Medicaid, an appeal should have been filed by September 27, 2017. The record reflects that you filed your appeal on October 4, 2017, which is beyond the 60-day deadline.

Although the appeal was untimely on its face, the record reflects that you contacted NYSOH and submitted a new application on August 4, 2017, which was within the 60-day deadline.

As you originally contacted NYSOH regarding your coverage within 60 days of the July 29, 2017 disenrollment notice, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan and not Medicaid, effective September 1, 2017.

You were found eligible for Medicaid effective March 1, 2017.

For an applicant to remain eligible for enrollment in a Medicaid Managed Care plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a New York State Resident.

According to your NYSOH account, on June 30, 2017, July 21, 2017, August 5, 2017, August 12, 2017 and August 23, 2017, NYSOH issued notices that were returned to NYSOH as undeliverable. You were subsequently disenrolled four times from your Medicaid Managed Care plan because NYOSH received mail addressed to you that was undeliverable; therefore, the system assumed that you no longer met the state residency requirement for enrollment in a Medicaid Managed Care plan.

As such, on July 29, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating that you were no longer eligible to enroll in Medicaid and your Medicaid Managed Care plan would end, effective July 31, 2017. On August 12, 2017 NYSOH issued a discontinuance notice and plan disenrollment notice, stating that you were no longer eligible to enroll in Medicaid and your Medicaid Managed Care would end, effective September 1, 2017. On August 26, 2017, NYSOH sent a notice stating that you were not qualified to enroll through

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NYSOH, and on September 22, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating that you were no longer eligible for Medicaid and your Medicaid Managed Care plan would end, effective October 1, 2017.

However, the June 30, 2017 address confirmation notice was mailed to 314 Western Ave, Schenectady NY 12203. The June 30, 2017 eligibility notice, the July 21, 2017 eligibility and enrollment confirmation notices, the August 5, 2017 and August 23, 2017 address confirmation notices, and the August 12, 2017 discontinuance and disenrollment notices were mailed to [REDACTED]. You credibly testified that you have lived at [REDACTED] since April 2017, that you have not had any problems receiving mail, and that you have received other notices from NYSOH at that address.

Based on the credible evidence of the record, it is reasonable to conclude that the notices were returned as undeliverable through no fault of your own, and was the result of an error by USPS. As a result, your disenrollment from your Medicaid Managed Care plan was in error.

Therefore, the July 29, 2017, August 12, 2017, and September 22, 2017 discontinuance and disenrollment notices are RESCINDED. The August 26, 2017 denial notice is RESCINDED.

On August 8, 2017, an updated application for health insurance was submitted on your behalf. That application stated that your annual household income was \$17,008.94. As a result of this application, you were found eligible for the Essential Plan, effective September 1, 2017. On August 29, 2017, and October 4, 2017, you submitted updated applications for health insurance, which stated that your annual household income was \$17,505.93. As a result of those applications, you were determined eligible for the Essential Plan effective October 1, 2017, and November 1, 2017, respectively.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called "continuous coverage."

Credible evidence confirms that you were eligible for Medicaid effective March 1, 2017, and that even though your estimated annual income increased in your subsequent applications, you remain eligible for and enrolled in Medicaid for the remainder of your 12-month eligibility period, until February 28, 2018. Since you were erroneously disenrolled from your initial Medicaid coverage for lack of state residence, the record supports no triggering event occurred which would have made you no longer eligible for Medicaid continuous coverage.

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Therefore, the August 9, 2017, August 30, 2017 and October 5, 2017 eligibility determination notices determining you eligible for the Essential Plan are RESCINDED.

Accordingly, your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan, effective August 1, 2017 and to continue your Medicaid barring subsequent changes in eligibility until February 28, 2018.

Since your eligibility for continuous coverage Medicaid will expire on February 28, 2018, NYSOH is further directed to conduct outreach to you to assist you in updating your income information for coverage effective March 1, 2018.

Decision

The July 29, 2017 discontinuance and disenrollment notices are RESCINDED.

The August 9, 2017 eligibility determination notice is RESCINDED.

The August 12, 2017 discontinuance and disenrollment notices are RESCINDED.

The August 26, 2017 denial notice is RESCINDED.

The August 30, 2017 eligibility determination notice is RESCINDED.

The September 22, 2017 discontinuance and disenrollment notices are RESCINDED.

The October 5, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan, effective August 1, 2017 and to continue your Medicaid barring subsequent changes eligibility until February 28, 2018.

Your case is also RETURNED so NYSOH can conduct outreach to you to assist you in updating your income information for coverage effective March 1, 2018 since your eligibility for continuous coverage Medicaid will expire on February 28, 2018.

Effective Date of this Decision: January 12, 2018

How this Decision Affects Your Eligibility

You should have remained eligible for Medicaid and a Medicaid Managed Care plan until February 28, 2018.

Your case is being sent back to NYSOH to reinstate you into your Medicaid Managed Care plan as of August 1, 2017.

NYSOH will assist you in updating your application for coverage effective March 1, 2018.

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

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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 mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 29, 2017 discontinuance and disenrollment notices are RESCINDED.

The August 9, 2017 eligibility determination notice is RESCINDED.

The August 12, 2017 discontinuance and disenrollment notices are RESCINDED.

The August 26, 2017 denial notice is RESCINDED.

The August 30, 2017 eligibility determination notice is RESCINDED.

The September 22, 2017 discontinuance and disenrollment notices are RESCINDED.

The October 5, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan, effective August 1, 2017 and to continue your Medicaid barring subsequent changes eligibility until February 28, 2018.

You should have remained eligible for Medicaid and a Medicaid Managed Care plan until February 28, 2018.

Your case is also RETURNED so NYSOH can conduct outreach to you to assist you in updating your income information for coverage effective March 1, 2018

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since your eligibility for continuous coverage Medicaid will expire on February 28, 2018.

NYSOH will assist you in updating your application for coverage effective March 1, 2018.

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 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.

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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