



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

## Notice of Decision

Decision Date: January 17, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023246



On December 11, 2017, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's August 29, 2017 eligibility determination notice and October 11, 2017 plan 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 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.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: January 17, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023246



## Issues

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

Did NY State of Health provide a timely determination of your Medicaid eligibility as of August 29, 2017?

Did NY State of Health properly determine that you were eligible for the Essential Plan for a cost of \$0.00 per month, effective October 1, 2017?

Did NY State of Health properly determine that your Essential Plan began November 1, 2017?

Did NY State of Health properly determine that you were not eligible for Medicaid?

## Procedural History

On August 4, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating you were eligible for Medicaid, effective September 1, 2016. You then enrolled in a Medicaid Managed Care plan with a start date of September 1, 2016.

On July 2, 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

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your account by August 15, 2017, or you might lose the financial assistance you were currently receiving.

On August 14, 2017, you updated your application.

On August 15, 2017, NYSOH issued a notice stating the income information in your application did not match what NYSOH received from federal and state data sources. The notice directed you to provide proof of your household income by August 29, 2017.

On August 15, 2017, NYSOH issued a disenrollment notice stating that your current Medicaid Managed Care plan enrollment would end effective August 31, 2017.

On August 21, 2017, NYSOH received your income documentation in the form of paystubs [REDACTED]

On August 22, 2017, a NYSOH representative invalidated your income documentation.

On August 23, 2017, NYSOH issued a notice stating the documentation reviewed did not confirm the information in your application. The notice requested proof of your income by September 13, 2017.

On August 26, 2017, you provided copies of your oldest child's paystubs [REDACTED]

On August 28, 2017, a NYSOH representative verified that income documentation and submitted an application on your behalf.

On August 29, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan with a \$0.00 per month premium, effective October 1, 2017. The notice stated you were not eligible for Medicaid because your household income of \$34,568.95 was over the allowable income limit for that program.

On October 10, 2017, you enrolled in an Essential Plan with a start date of November 1, 2017.

On October 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan requesting it be backdated to September 1, 2017.

On December 11, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you appointed an authorized representative who assisted you. The Hearing Officer permitted your authorized representative to amend your appeal to include that you are disputing the August 28, 2017 eligibility determination finding you eligible for the Essential Plan and not Medicaid. The record was developed during the hearing closed at the end of proceeding.

## **Findings of Fact**

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

- 1) You testified that you expect to file your 2017 taxes with a tax filing status of Head of Household. You will claim three dependents on that tax return.
- 2) You are seeking health insurance for yourself.
- 3) The applications that were submitted on July 31, 2017 and August 14, 2017, listed an annual household income of \$32,008.00, consisting of \$24,908.00 you earn from your employment and \$7,100.00 your oldest child earns from his employment.
- 4) The application that was submitted on August 28, 2017, by a NYSOH representative on your behalf listed annual household income of \$34,568.95, consisting of \$24,908.00 you earn from your employment and \$9,660.95 your oldest child earns from his employment.
- 5) Your application states that you will not be taking any deductions on your 2017 tax return.
- 6) According to your NYSOH account, NYSOH received your application for financial assistance on August 14, 2017.
- 7) On August 21, 2017, you submitted documentation of your paystubs to NYSOH for verification of the income stated in your August 14, 2017 application [REDACTED]
- 8) Your income documentation was determined invalid on August 22, 2017, as your oldest child's proof of income was still required.
- 9) On August 26, 2017, you provided copies of your oldest child's paystubs [REDACTED]

- 10) On August 28, 2017, those paystubs were verified as acceptable proof of income and your income was updated as stated in Fact #4.
- 11) According to your NYSOH account, you selected an Essential Plan on October 10, 2017.
- 12) According to your NYSOH account and your authorized representative's testimony, you are appealing your enrollment start date of your Essential Plan and your ineligibility for Medicaid as stated in the August 28, 2017 eligibility determination notice.

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

## **Applicable Law and Regulations**

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### Timely Notice of Medicaid Eligibility

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

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

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

## 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).

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 \$24,300.00 for a four-person household (81 Federal Register 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).

## Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

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## Dependent Income

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(a)(1)(A)). For the 2017 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Publication 929 as of 8/25/2017).

## Essential Plan Effective Date

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)).

## Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).



In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4).

On the date of your application, that was the 2017 FPL, which is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue under review is whether NYSOH provided you with timely determination of your Medicaid eligibility as of August 29, 2017.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

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

You updated your NYSOH account on August 14, 2017. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On August 21, 2017, you uploaded a copy of your paystubs. A NYSOH representative reviewed that documentation on August 22, 2017, and they were determined to be invalid. You provided additional paystubs for your oldest child on August 26, 2017, and on August 28, 2017 a NYSOH verified those paystubs as acceptable proof of income.

Therefore, your application was considered complete as of August 26, 2017 for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

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NYSOH issued an eligibility determination notice on August 29, 2017 that stated you were ineligible for Medicaid. Since NYSOH issued an eligibility determination 3 days from the date your application was considered complete, the August 29, 2017 eligibility determination was timely.

The second issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan for a cost of \$0.00 per month, effective October 1, 2017.

You are in a four-person household for purposes of this analysis. This is because you expect to file your 2017 income taxes as Head of Household and will claim three dependents on that tax return.

The application that was submitted on August 28, 2017 listed an annual household income of \$34,568.95 and the eligibility determination relied upon that information.

The MAGI of an individual applying to NYSOH will include a tax filer's income and the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year.

For the 2017 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return. The application submitted attested to your oldest child having an annual income of \$9,660.95.

Therefore, NYSOH correctly determined your household income to include your oldest son's income and to be \$34,568.95 annually.

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 application, the relevant FPL was \$24,300.00 for a four-person household.

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution.

Since an annual household income of \$34,568.95 is 142.26% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan for a cost of \$0.00 per month effective October 1, 2017. Therefore, the August 29, 2017 eligibility determination stating you were eligible for the Essential Plan at \$0.00 per month, effective October 1, 2017, is correct and is AFFIRMED.

The third issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective November 1, 2017.

The record reflects that you contacted NYSOH on October 10, 2017 and enrolled into an Essential Plan.

The date on which enrollment in an 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 from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On October 10, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following October; that is, on November 1, 2017.

As has been determined above, the August 29, 2017 eligibility determination notice was timely issued and properly stated you were eligible for the Essential Plan, you were able to select an Essential Plan as of October 10, 2017.

Therefore, the October 11, 2017m plan enrollment notice stating that your enrollment in your Essential Plan would be effective November 1, 2017, was correct and must be AFFIRMED.

The fourth issue under review is whether NYSOH properly determined that you were ineligible for Medicaid

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. There is nothing in your application to indicate that you did not meet the non-financial requirements such that the analysis turns to the financial requirements. The record reflects that your eligibility for Medicaid and enrollment in a Medicaid Managed Care plan was to end as of August 31, 2017 and, therefore, you were currently receiving Medicaid benefits. As such, the analysis of your eligibility for Medicaid is based on annual, not monthly, household income.

On the date of your application, the relevant FPL was \$24,600.00 for a four-person household. Since \$34,568.00 is 140.52% of the 2017 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 29, 2017 eligibility determination notice properly stated that, based on the information you provided, you were ineligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The August 29, 2017 eligibility determination notice as to your eligibility for Medicaid was timely issued by NYSOH.

The August 29, 2017 eligibility determination notice is AFFIRMED.

The October 11, 2017 plan enrollment notice stating that your enrollment in your Essential Plan would be effective November 1, 2017, is AFFIRMED.

**Effective Date of this Decision:** January 17, 2018

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

You were properly determined eligible for the Essential Plan for a cost of \$0.00 per month, effective October 1, 2017, and ineligible for Medicaid.

Your enrollment in the Essential Plan you selected on October 10, 2017, properly started as of November 1, 2017.

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

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

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

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

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

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
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- By fax: 1-855-900-5557

### **Summary**

The August 29, 2017 eligibility determination notice as to your eligibility for Medicaid was timely issued by NYSOH.

The August 29, 2017 eligibility determination notice is AFFIRMED.

The October 11, 2017 plan enrollment notice stating that your enrollment in your Essential Plan would be effective November 1, 2017, is AFFIRMED.

You were properly determined eligible for the Essential Plan for a cost of \$0.00 per month, effective October 1, 2017, and ineligible for Medicaid.

Your enrollment in the Essential Plan you selected on October 10, 2017, properly started as of November 1, 2017.

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## **Legal Authority**

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**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 okyerε 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)**

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