



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

## Notice of Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023818

[REDACTED]

On January 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's eligibility determination notices, dated August 26, 2017, October 3, 2017, October 25, 2017, and November 2, 2017.

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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## Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023818



## Issues

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

Did NY State of Health properly determine that your spouse was eligible for Medicaid, effective August 1, 2017?

Did NY State of Health properly determine that your child was eligible for Medicaid, effective September 1, 2017?

Did NY State of Health properly determine that your child was no longer eligible for Medicaid, but would continue to receive Medicaid until September 30, 2018?

Did NY State of Health properly determine that your child was eligible to purchase a qualified health plan at full cost through NY State of Health, effective December 1, 2017?

## Procedural History

On August 25, 2017, NY State of Health (NYSOH) received your application for financial assistance with health insurance. This application indicated that your spouse was pregnant with one child and the due date was September 13, 2017, and your household income was \$0.00.

On August 26, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for Medicaid, effective August 1, 2017.

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This notice further stated that your spouse was ineligible to enroll into a Medicaid Managed Care plan because she had other health insurance outside of NYSOH. On August 29, 2017 and August 31, 2017, NYSOH received your applications for financial assistance with health insurance, both of which contained the same information as listed in your August 25, 2017 application.

On August 30, 2017 and September 1, 2017, NYOSH issued eligibility determination notices stating that you and your spouse remained eligible for Medicaid, effective August 1, 2017. This notice further stated that your spouse was ineligible to enroll in a Medicaid Managed Care plan because she had other health insurance outside of NYSOH.

On October 2, 2017, NYSOH received your updated application for financial assistance with health insurance. This application included your child, who was born on September 27, 2017, and listed the same income information as in the previous applications.

On October 3, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse, and your child were eligible for Medicaid. Your and your spouse's eligibility was effective October 1, 2017, and your child's eligibility was effective September 1, 2017.

Also on October 3, 2017, NYSOH issued a plan enrollment notice confirming your spouse and your child's enrollment in a Medicaid Managed Care plan, effective November 1, 2017, and your enrollment in a Medicaid Managed Care plan, effective October 1, 2017.

On October 11, 2017, NYSOH received your updated application for financial assistance, which listed an increased annual expected household income amount of \$36,000.00 from \$0.00.

On October 12, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were no longer eligible for Medicaid, effective October 1, 2017. However, your coverage would continue until October 31, 2018 and your spouse's coverage would continue until September 30, 2018. This notice further stated that your child remained eligible for Medicaid, effective October 1, 2017.

On October 24, 2017, NYSOH received your updated application for financial assistance with health insurance. More specifically, this application listed an increased annual expected household income amount of \$66,608.04 from \$36,000.00.

On October 25, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were no longer eligible for Medicaid, effective October 1, 2017. However, your coverage would continue until October 31, 2018, and your spouse's coverage would continue until September 30, 2018. This notice

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further stated that your child remained eligible for Medicaid, effective October 1, 2017, because her mother had Medicaid when she was born or within three months prior.

On October 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as your child remained eligible for Medicaid.

On November 1, 2017, NYSOH received your non-financial application for health insurance through NYSOH.

On November 2, 2017, NYSOH issued an eligibility determination stating that your child was newly eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2017. This notice further stated that your child was not eligible for Medicaid through NYSOH as of November 30, 2017.

On January 9, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was left open until January 24, 2018, to allow you to submit supporting documents.

On January 16, 2018, you uploaded a one-page document containing the supporting documentation. This documentation was made part of the record as "Appellant's Exhibit #1" and the record was closed.

## **Findings of Fact**

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

- 1) You testified that your spouse had health insurance through her parent's health insurance plan, but that you submitted an application on August 25, 2017, for health insurance through NYSOH to inquire whether your spouse would be eligible for secondary insurance.
- 2) The application that was submitted on August 25, 2017 indicated that:
  - a) Your spouse was pregnant with one child with a due date of [REDACTED];
  - b) You expected to file your 2017 federal tax return as married filing jointly; and
  - c) Your annual household income was \$0.00.
- 3) According to your NYSOH account, you and your spouse were found eligible for Medicaid, effective August 1, 2017.

- 4) According to your NYSOH account, your spouse was unable to enroll into a Medicaid Managed Care plan because she was already enrolled into third party health insurance.
- 5) According to your NYSOH account, you submitted two applications after the August 25, 2017 application, on August 29, 2017 and August 31, 2017, and both listed an annual household income of \$0.00.
- 6) According to your NYSOH account and your testimony, your child was born on [REDACTED]
- 7) According to your NYSOH account and your testimony, your child was added to your NYSOH account on October 2, 2017.
- 8) The application that was submitted on October 2, 2017, listed an annual household income of \$0.00.
- 9) According to your NYSOH account, your child was found eligible for Medicaid, effective September 1, 2017.
- 10) You testified that you own your own business, and that you are in the middle of a lawsuit. You testified that your attorney and your accountant both told you not to take a salary while the lawsuit is pending. As a result, you testified that you indicated in your NYSOH account that you did not have any income.
- 11) You testified that after filing out the applications, you determined that you were incorrectly inputting your income into the applications and attempted to fix your mistake.
- 12) The record indicates that you submitted an updated application on October 11, 2017, in which you listed an annual household income of \$36,000.00.
- 13) According to your NYSOH account, following the October 11, 2017 application, your child remained eligible for Medicaid, effective October 1, 2017, because her household income was at or below the household income limits for newborns in that program.
- 14) According to your NYSOH account, you submitted an updated application on October 24, 2017, in which you listed an annual household income of \$66,608.04.
- 15) According to your NYSOH account, following the October 24, 2017 application, your child was no longer eligible for Medicaid but remained eligible until September 30, 2018.

- 16) According to your NYSOH account, you ran a non-financial application on November 1, 2017 and as a result, your child is now eligible to enroll in a full pay qualified health plan, effective December 1, 2017.
- 17) On January 16, 2017, you uploaded an earning and expense worksheet from your business ( [REDACTED] ).
- 18) You testified that you do not want your child to have Medicaid because you child's health care provider does not accept Medicaid and you do not want to switch doctors.
- 19) You testified that you would like your child to be found eligible for Child Health Plus as of the date of his birth.

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

## **Applicable Law and Regulations**

### Medicaid for Pregnant Women

Medicaid can be provided through the Marketplace 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)), N.Y. Soc. Serv. Law § 366(1)(b)).

“Family size” means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive

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13ADM-03). On the date of your application, that was the 2017 FPL, which is \$20,420.00 for a three-person household (82 Federal Register 8831).

### Medicaid for Newborns

A child born to a woman eligible for and receiving medical assistance on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance on the date of the birth and remains eligible for such assistance for a period of one year, so long as the child is a member of the woman's household and the woman remains eligible for such assistance or would remain eligible for that assistance if she were pregnant (N.Y. Soc. Serv. Law §366(4)(b)(2)).

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 \$20,420.00 for a three-person household (82 Fed. Reg. 8831).

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person's household remains Medicaid eligible for 12 months unless the person becomes ineligible due to "citizenship status, lack of [New York] state residence, or failure to provide a valid social security number" (N.Y. Social Services Law § 366.4(c)).

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).



## Legal Analysis

The first issue under review is whether NYSOH properly determine that your spouse was eligible for Medicaid, effective August 1, 2017.

You testified that you own your own business and at the time of the application your business was in a lawsuit. You testified that your attorney and your accountant informed you that you should not take a salary while the lawsuit is pending. You testified that you indicated on your NYSOH account that you did not have any income. As a result, the application that was submitted on August 25, 2017, listed an annual household income of \$0.00 and the eligibility determination relied upon this information.

The household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver. Although the application indicated that you and your spouse are filing your 2017 tax return as married filing jointly, you also indicated your spouse was pregnant with one child. Therefore, at the time of your August 25, 2017, your spouse was in a three-person household.

Medicaid is available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,420.00 for a three-person household. Since \$0.00 is 0% of the applicable 2017 FPL, NYSOH properly found your spouse to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Therefore, the August 25, 2017 eligibility determination notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your child was eligible for Medicaid, effective September 1, 2017.

You added your child, who was born on [REDACTED], to your NYSOH application on October 2, 2017. According to the October 2, 2017 application, you expect to file your 2017 federal income tax return as married filing jointly and will claim your one children as a dependent. Therefore, your child is in a three-person household.

Medicaid can be provided through NYSOH to a child under one year of age if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the FPL for the applicable family size. There is nothing in the record to indicate your child did not meet any of the non-financial requirements. Therefore, the analysis turns to the financial requirement.

In the October 2, 2017 application, you attested to an annual household income of \$0.00. Since your child was [REDACTED] and \$0.00 is 0.00% of the

applicable 2017 FPL for a three-person household, your child was eligible for Medicaid on an annual income basis based on the information in your application.

Further, in New York State, Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth.

Since the record reflects that your spouse was found eligible for Medicaid as of August 1, 2017, and receiving Medicaid as of the date of your child's birth, your child was also properly found eligible for Medicaid as of the date of her birth due to her mother's Medicaid eligibility.

Therefore, the October 3, 2017 eligibility determination notice is AFFIRMED.

The third issue under review is whether NYSOH properly determine that your child was no longer eligible for Medicaid, but would continue to receive Medicaid until September 30, 2018.

You further testified that after completing the prior applications, you determined that you had incorrectly input your household income. You testified that, once you realized your mistake, you attempted to correct the problem. However, your child was still being found eligible for Medicaid.

On January 16, 2018, you uploaded a record of your business's income and expenses for August 2017, September 2017 and October 2017. This record indicated that your business did receive a profit for those months, but it did not indicate whether you received this profit as income. Since the documentation you provided did not provide sufficient proof that the information listed in your applications prior to October 24, 2017 was incorrect, the NYSOH's Appeals Unit is constrained to affirm the prior eligibility determinations that were made by NYSOH based on the information listed in your prior applications.

The record indicates that you submitted an updated application for financial assistance on October 24, 2017. In that application, you attested to an annual household income of \$66,608.04. Since your child was [REDACTED] and \$55,020.00 is 326.19% of the FPL for a three-person household in 2017, your child is ineligible for Medicaid on an annual income basis.

However, your spouse was determined eligible for Medicaid effective August 1, 1, 2017. A child, born to a woman eligible for and receiving Medicaid on the date of the child's birth, is eligible for Medicaid on the date of birth and remains eligible for a period of one year. Because your spouse was determined eligible for Medicaid within three months of your child's birth, your child was determined eligible for Medicaid, effective September 1, 2017, and will remain eligible for a period of one year, despite being ineligible on a financial basis.

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As such, NYSOH properly determined that your child was no longer eligible for Medicaid on an annual income basis, but would continue to receive Medicaid until September 30, 2017 due to her mother's Medicaid eligibility and the one-year rule.

Therefore, the October 25, 2017 eligibility determination notice is AFFIRMED.

The final issue under review is whether NYSOH properly determine that your child was eligible to purchase a qualified health plan at full cost through NY State of Health, effective December 1, 2017.

In order to be found eligible for financial assistance with health insurance, NYSOH needs information regarding household income to determine eligibility for financial assistance.

The record indicates that you changed your application from financial to non-financial on November 1, 2017. As a result, your child was found eligible to purchase a full price qualified health plan through NYSOH, effective December 1, 2017. This eligibility determination also indicated that your child was no longer eligible for Medicaid, effective November 30, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health 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 fifteenth day of a month goes into effect on the first day of the following month.

As a result, since you updated your account on November 1, 2017, any eligibility redetermination results would be effective the first month following November 2017; that is, as of December 1, 2017.

Therefore, NYSOH's November 2, 2017 eligibility determination notice is AFFIRMED because it properly began your child's eligibility for a full pay qualified health plan on December 1, 2017.

## **Decision**

The August 25, 2017 eligibility determination notice is AFFIRMED.

The October 3, 2017 eligibility determination notice is AFFIRMED.

The October 25, 2017 eligibility determination notice is AFFIRMED.

The November 1, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** February 13, 2018

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

Using the information you provided in your August 25, 2017 application, NYSOH properly determined that your spouse was eligible for Medicaid, effective August 1, 2017.

Your child's Medicaid coverage, which began on September 1, 2017, properly continues until September 30, 2018.

Your child was properly found eligible for a full pay qualified health plan, effective December 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:

- 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

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- 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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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The August 25, 2017 eligibility determination notice is AFFIRMED.

The October 3, 2017 eligibility determination notice is AFFIRMED.

The October 25, 2017 eligibility determination notice is AFFIRMED.

The November 1, 2017 eligibility determination notice is AFFIRMED.

Using the information you provided in your August 25, 2017 application, NYSOH properly determined that your spouse was eligible for Medicaid, effective August 1, 2017.

Your child's Medicaid coverage, which began on September 1, 2017, properly continues until September 30, 2018.

Your child was properly found eligible for a full pay qualified health plan, effective December 1, 2017.

## **Legal Authority**

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

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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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