



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

Notice of Decision

Decision Date: February 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023950

[REDACTED]

[REDACTED],

On February 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 13, 2017 eligibility determination notice, October 13, 2017 disenrollment notice, and October 26, 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: February 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023950



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 newborn was eligible to enroll in a full price Child Health Plus plan or a child-only qualified health plan, effective November 1, 2017, and disenrolled from his Child Health Plus plan with a \$45.00 monthly premium, effective October 31, 2017?

Did NY State of Health provide a timely determination of your newborn's Child Health Plus eligibility as of December 1, 2017?

Did NY State of Health properly determine that your newborn was eligible for Child Health Plus with a \$30.00 monthly premium, effective December 1, 2017?

Procedural History

On August 8, 2017, you updated your household's application for financial assistance. Specifically, you added your newborn to your application.

On August 9, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your newborn was eligible for Child Health Plus for a limited time, with a \$45.00 monthly premium, effective August 1, 2017. This notice directed you to submit proof of your household income by October 7, 2017 and proof of your newborn's citizenship status and social security number by November 6, 2017 in order to confirm his eligibility for financial assistance.

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Also on August 9, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was enrolled in a Child Health Plus plan, effective August 1, 2017.

Also on August 9, 2017, you updated your household's application for financial assistance. Specifically, you updated the spelling of your newborn's name.

On August 10, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was eligible for Child Health Plus for a limited time, with a \$45.00 monthly premium, effective August 1, 2017. This notice directed you to submit proof of your household income by October 7, 2017 and proof of your newborn's citizenship status and social security number by November 6, 2017 in order to confirm his eligibility for financial assistance.

No income documentation was received by October 7, 2017.

On October 12, 2017, NYSOH redetermined your children's eligibility for financial assistance with health insurance.

On October 13, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was eligible for a full price Child Health Plus plan or a child-only qualified health plan, for a limited time, effective November 1, 2017. This notice directed you to provide proof of your newborn's citizenship status and social security number by November 6, 2017.

Also on October 13, 2017, NYSOH issued a disenrollment notice stating that your newborn's coverage with his Child Health Plus plan would end on October 31, 2017. This was because he was no longer eligible to remain enrolled in his Child Health Plus plan.

On October 15, 2017, you uploaded a copy of your newborn's social security card and birth certificate to your NYSOH account.

On October 16, 2017, NYSOH issued an enrollment confirmation notice stating that your newborn was enrolled in a full price Child Health Plus plan effective November 1, 2017.

Also on October 16, 2017, NYSOH reviewed the citizenship and social security number documentation you provided for your newborn, updated your application, and submitted an application on your behalf.

On October 17, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was eligible for Child Health Plus for a limited time, with a \$45.00 monthly premium, effective December 1, 2017. This notice directed you to submit proof of your household income by December 15, 2017 in order to confirm his eligibility for financial assistance.

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On October 19, 2017, you uploaded income documentation to your NYSOH account.

On October 20, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of your household's income.

On October 21, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application. This notice directed you to submit additional proof of your household's income by December 15, 2017.

On October 25, 2017, you uploaded additional income documentation to your NYSOH account.

Also on October 25, 2017, NYSOH verified the income documentation you submitted, recalculated your household income based on this documentation, and submitted an updated application on your behalf.

On October 26, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was eligible for Child Health Plus with a \$30.00 monthly premium, effective December 1, 2017.

Also on October 26, 2017, NYSOH issued a notice of enrollment confirmation stating that your newborn was enrolled in a Child Health Plus plan with a \$30.00 monthly premium effective December 1, 2017.

On November 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your newborn's Child Health Plus subsidy for the month of November 2017 requesting that he be found eligible for a \$30.00 monthly premium as of November 1, 2017.

On February 2, 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) Your account reflects that you contacted NYSOH on August 8, 2017 and updated your account to reflect the birth of your newborn. Thereafter, on August 9, 2017, you contacted NYSOH and updated the spelling of your newborn's name.

- 2) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you believe that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your newborn's eligibility was only conditional and that you needed to provide documentation of your household income.
- 4) You testified that you did not know that you needed to submit documentation of your household's income until you received the November 2017 premium bill.
- 5) You testified that once you learned that your newborn's Child Health Plus premium had increased, you contacted the plan, and then contacted NYSOH, at which time you were advised that you needed to provide documentation.
- 6) On October 15, 2017, you uploaded a copy of your newborn's social security card and birth certificate to your NYSOH account.
- 7) On October 16, 2017, NYSOH reviewed your newborn's social security card and birth certificate and updated your NYSOH account to reflect your newborn's social security number.
- 8) On October 19, 2017, you uploaded one of your spouse's paystubs for pay date October 13, 2017 showing that your spouse received a weekly salary of \$2,300.00.
- 9) On October 20, 2017, NYSOH reviewed the income documentation you uploaded on October 19, 2017 and determined that this was insufficient proof of your household income as the required documentation was four consecutive weeks of pay records.
- 10) On October 25, 2017, you uploaded four of your spouse's paystubs for pay dates September 29, 2017, October 4, 2017, October 13, 2017, and October 20, 2017 showing that your spouse received a weekly salary of \$2,300.00.
- 11) Also on October 25, 2017, NYSOH verified the income documentation you submitted and recalculated your household income based on this documentation. NYSOH then updated your household's application to reflect this recalculated income and submitted an application on your behalf.
- 12) You testified that you are seeking for your newborn to have a Child Health Plus subsidy applied to his monthly premium for November 2017 and you are seeking to have his premium be \$30.00 for that month.

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- 13) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of “NYSOH Analysis of Electronic Notice Requirements” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices”.
- 14) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the August 9, 2017 or August 10, 2017 eligibility determination notices.

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

Applicable Law and Regulations

Child Health Plus

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

Timely Notice of Child Health Plus 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 who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)). NYS has elected to use a common application for Medicaid and Child Health Plus, therefore the timeliness standards for Child Health Plus determinations are the same as those for Medicaid determinations (see State Plan Amendment NY-CSPA-19, approved March 22, 2012 and effective November 11, 2011).

Child Health Plus – Proper Notice

NYSOH may not deny or terminate eligibility or reduce benefits for any individual on the basis of the information received, unless NYSOH has sought additional information from the individual and provided proper notice and hearing rights to the individual (42 CFR § 457.380(d); 42 CFR § 435.952(d)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The first issue is whether NYSOH properly determined that your newborn was eligible to enroll in a full price Child Health Plus plan or a child-only qualified health plan, effective November 1, 2017, and disenrolled from his Child Health Plus plan with a \$45.00 monthly premium, effective October 31, 2017

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in Child Health Plus, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's income documentation, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determinations issued on August 9, 2017 and August 10, 2017, you were advised that your newborn was eligible for Child Health Plus with a \$45.00 monthly premium for a limited time, and that you needed to confirm your household's income before October 7, 2017.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on August 9, 2017 or August 10, 2017. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notices, which directed you that your newborn's eligibility was limited and that you needed to submit documentation to confirm the household income in your application. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient

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evidence in the record that NYSOH provided you by electronic means with proper notice that you needed to submit documentation of your household income.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the October 13, 2017 eligibility determination notice and the October 13, 2017 disenrollment notice, stating that your newborn was eligible to enroll in a full price Child Health Plus plan or a child-only qualified health plan are RESCINDED.

The second issue is whether NYSOH provided you with a timely determine of your newborn's Child Health Plus eligibility as of December 1, 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 submitted documentation of your newborn's social security number on October 15, 2017 which resulted in your household's application for financial assistance being updated on October 16, 2017. The income amount entered into that application did not match federal and state data sources. As a result, NYSOH asked that you submit documentation to confirm your household's income.

On October 19, 2017, you uploaded one of your spouse's paystubs to your NYSOH account for pay date October 13, 2017 stating that your spouse received a weekly salary.

On October 20, 2017, NYSOH reviewed this documentation and determined that it was insufficient to resolve the inconsistency in your account.

On October 25, 2017, you uploaded four consecutive paystubs for your spouse to your NYSOH account stating that your spouse received the same weekly salary.

Therefore, your application was completed as of October 25, 2017.

NYSOH must provide applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 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 October 26, 2017 stating that your newborn was eligible for Child Health Plus with a \$30.00 monthly premium effective December 1, 2017. Since NYSOH issued an eligibility determination one day from the date your application was considered complete, the October 26, 2017 eligibility determination notice was timely.

The third issue is whether NYSOH properly determined that your newborn was eligible for Child Health Plus with a \$30.00 monthly premium, effective December 1, 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

You submitted sufficient documentation of your household's income on October 25, 2017. This income documentation resulted in your household's income being recalculated, thereby resulting in a \$30.00 monthly Child Health Plus premium rather than the previous \$45.00 monthly Child Health Plus premium.

Since the October 26, 2017 eligibility determination notice was timely issued, a Child Health Plus plan with a \$30.00 premium was able to be selected that day.

On October 26, 2017, a Child Health Plus plan with a \$30.00 monthly premium was selected for your newborn. Therefore, his enrollment in a Child Health Plus plan with a \$30.00 monthly premium properly took effect on the first day of the second month following October 2017; that is, on December 1, 2017.

Therefore, the October 26, 2017 eligibility determination notice stating that your child was eligible for Child Health Plus with a \$30.00 monthly premium effective December 1, 2017 is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of November 2017.

Decision

The October 13, 2017 eligibility determination notice is RESCINDED.

The October 13, 2017 disenrollment notice is RESCINDED.

The October 26, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of November 2017.

Effective Date of this Decision: February 8, 2018

How this Decision Affects Your Eligibility

NYSOH erred in terminating your newborn's Child Health Plus plan with a \$45.00 monthly premium effective October 31, 2017 without proper notice.

NYSOH properly determined that your newborn is eligible for Child Health Plus with a \$30.00 premium effective December 1, 2017.

Your case is being sent back to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of November 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

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

Summary

The October 13, 2017 eligibility determination notice is RESCINDED.

The October 13, 2017 disenrollment notice is RESCINDED.

NYSOH erred in terminating your newborn's Child Health Plus plan with a \$45.00 monthly premium effective October 31, 2017 without proper notice.

The October 26, 2017 eligibility determination notice is AFFIRMED.

NYSOH properly determined that your newborn is eligible for Child Health Plus with a \$30.00 premium effective December 1, 2017.

Your case is RETURNED to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of November 2017.

Your case is being sent back to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of November 2017.

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Legal Authority

We are issuing this determination 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 مجانًا.

বাংলা (Bengali)

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

Français (French)

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

हिंदी (Hindi)

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

日本語 (Japanese)

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

नेपाली (Nepali)

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

Polski (Polish)

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

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye srε wo, frε 1-855-355-5777. ye&εtumi 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.

אַײַדיש (Yiddish)

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