



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

Notice of Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024932

[REDACTED]

Dear [REDACTED],

On February 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2017 eligibility determination and plan enrollment notices.

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: March 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024932



Issues

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

Did NY State of Health (NYSOH) provide a timely determination of your household's eligibility as of November 17, 2017?

Did NYSOH properly determined that enrollment for you, your spouse, and your oldest child in a qualified health plan was effective January 1, 2018?

Did NYSOH properly determine that enrollment for youngest three in a Child Health Plus plan was effective January 1, 2018?

Procedural History

On November 13, 2017, NYSOH received your application for financial assistance with your household's health insurance.

On November 14, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided to NYSOH did not match what was obtained from state and federal data sources. You were instructed to submit income documentation for your household by November 28, 2017, to confirm eligibility.

On November 16, 2017, NYSOH received your updated application for health insurance. You also uploaded pay stubs to your NYSOH account, which were verified that same day. As a result, a new application was submitted on your

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household's behalf and your household's eligibility for financial assistance was determined.

On November 17, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse, and your oldest child were eligible to receive up to \$723.00 in advance payments of the premium tax credit, and that your youngest three children were eligible for Child Health Plus, all effective January 1, 2018.

Also on November 17, 2017, NYSOH issued a plan enrollment notice confirming that you, your spouse, and your oldest child were enrolled in a qualified health plan, and that your youngest three children were enrolled in a Child Health Plus plan, all with an effective start date of January 1, 2018.


On November 28, 2017, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your household's coverage, requesting that it begin as of December 1, 2017.

On February 1, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested a copy of the Evidence Packet and the Hearing Officer agreed to adjourn your hearing to a later date.

On February 9, 2018, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you are appealing the enrollment start date of your, your spouse's, and your oldest child's qualified health plan and the enrollment start date of your youngest three children's Child Health Plus plan.
- 2) According to the "Events" tab in your NYSOH account, NYSOH received your application for financial assistance on November 13, 2017. The application was initiated through an email account of 
- 3) According to the "Overview" page of your NYSOH account, this email account belongs to you.
- 4) Based on your November 13, 2017 application, NYSOH issued a preliminary determination for all household members that stated:

The information you provided does not match what the Marketplace obtained from State and Federal data sources. We will not be able to make an eligibility determination until you provide or the Marketplace is able to confirm additional information...

In order for your eligibility to be determined, you must submit documents by the date below to confirm that the information you provided in your application is accurate.

- 5) On November 14, 2017, NYSOH issued a notice that additional documentation in the form of proof of household income was needed by November 28, 2017 (see Document [REDACTED]).
- 6) According to the "Overview" page of your NYSOH account, the authorized start date for your certified application counselor to assist you with your household's application began November 14, 2017.
- 7) You testified that you provided your certified application counselor with your income documentation on November 14, 2017, but that your application counselor advised you the system was down and your documentation could not be submitted.
- 8) You testified that you attempted to submit documentation yourself on November 15, 2017, but that there was an error in your account preventing you from doing so.
- 9) According to your NYSOH account, on November 16, 2017, you successfully submitted your and your spouse's paystubs to NYSOH to verify the household income stated in your November 13, 2017 application.
- 10) On November 16, 2017, your documentation was verified as acceptable proof of income, and an application was run on your household's behalf.
- 11) According to your NYSOH account, you enrolled your household into health insurance coverage on November 16, 2017.
- 12) You testified that you want your household's coverage to begin on December 1, 2017, because you have outstanding bills for medical services received in December 2017.

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 from state and federal data sources 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 Qualified Health Plan 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 not proceed with the applicant's eligibility determination, or provide advance payments of the premium tax credit or cost-sharing reductions, unless the applicant provides sufficient information for NYSOH to make an eligibility determination (45 CFR §155.310(k)(3)).

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)).

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NYSOH must provide Medicaid applicants notice of their eligibility determination within 30 days from the date of the application for a child who is at least 1 year of age but younger than 19 years of age (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).

Verification of Eligibility for Advance Payments of the Premium Tax Credit

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

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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)).

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).

Legal Analysis

The first issue under review is whether NYSOH provided a timely determination of your household’s eligibility as of November 17, 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.

The record reflects that you updated your NYSOH account for your household on November 13, 2017. The income amount that was entered into that application did not match federal and state data sources. As a result, you were instructed to submit additional documentation to confirm your household's income, as stated in the November 14, 2017 notice.

On November 16, 2017, NYSOH received your household's income documentation. NYSOH verified those documents as acceptable proofs of income on November 16, 2017, such that your household's application was complete that day for purposes of issuing an eligibility determination.

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay. For children under age 19, NYSOH must provide notice of their eligibility 30 days from the date of a 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.

NYSOH issued an eligibility determination notice on November 17, 2017, that stated you, your spouse, and your oldest child were eligible to receive up to \$723.00 in advance payments of the premium tax credit, and that your youngest three children were eligible for Child Health Plus, effective January 1, 2018. Since NYSOH issued an eligibility determination one day from the date your application was considered complete, the November 17, 2017 eligibility determination notice was timely.

The second and third issues under review are respectively whether NYSOH properly determined that your, your spouse's, and your oldest child's enrollment in a qualified health plan was effective January 1, 2018; and whether NYSOH properly determined that your three younger children's enrollment in their Child Health Plus plan was effective January 1, 2018.

According to your NYSOH account, you initially applied for financial assistance for your household on November 13, 2017, using your email account. This application resulted in a preliminary finding that additional income documentation was needed to verify your household income, as stated in the November 14, 2017 notice.

According to your NYSOH account, you sought the assistance of an application counselor on November 14, 2017. You testified that you gave your application counselor proof of your and your spouse's earnings on November 14, 2017, and they advised you the system was down so your documentation could not be

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submitted. You further testified that you attempted to submit income documentation on November 15, 2017, but were unable to because there was an error on your account preventing you from doing so.

The record reflects that your and your spouse's income documents were successfully uploaded and verified by NYSOH on November 16, 2017, resulting in a January 1, 2018 eligibility and enrollment start date.

The record reflects that you selected a qualified health plan on November 16, 2017, and enrolled you, your spouse, and your oldest child into a qualified health plan.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment.

Generally, a plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you selected a plan on November 16, 2017, your, your spouse's, and your oldest child's enrollment in a qualified health plan would ordinarily take effect on the first day of the second month following November 2017; that is, on January 1, 2018.

The record further reflects that you contacted NYSOH on November 16, 2017, and enrolled your youngest three children into Child Health Plus.

Generally, 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.

Since you selected a Child Health Plus plan on November 16, 2017 for your youngest three children, their enrollment would ordinarily take effect on the first day of the second month following November 2017; that is, on January 1, 2018.

However, the circumstances as documented in your NYSOH account, indicate that you applied on November 13, 2017 and sought the assistance of a certified application counselor on November 14, 2017. You credibly testified that the certified application counselor was not able to complete an application and upload your and your spouse's income documents on November 14, 2017, because the system was down. You also credibly testified that you attempted to upload the documents on November 15, 2017, but that there was an error in your

account preventing you from doing so. Judicial notice is taken that November 14 and 15, 2017 were high-volume traffic days in NYSOH's system since open enrollment for 2018 recently began.

Therefore, it is reasonable to conclude that, but for the system being down on November 14, 2017, your household's application could not be completed that day and your income documents could not be submitted. It is also reasonable to conclude that, had you been able to complete your application and upload proof of income on November 14, 2017, your household's eligibility could have been determined by November 15, 2017, and you could have selected health plans for your family by that date with an enrollment start date of December 1, 2017.

Therefore, the November 17, 2017 plan enrollment notice stating that you, your spouse and your oldest child were enrolled in a qualified health plan; and your youngest three children were enrolled in their Child Health Plus plan, effective January 1, 2018, is MODIFIED to state the enrollment start date in both the qualified health plan and Child Health Plus plan are effective December 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes in the enrollment start dates in both plans, and to notify you accordingly.

Decision

The November 17, 2017 eligibility determination notice was timely issued.

The November 17, 2017 plan enrollment notice is MODIFIED to state the enrollment start date in both the qualified health plan for you, your spouse, and your oldest child is effective December 1, 2017, and Child Health Plus plan for your three younger children is effective December 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes in the enrollment start dates in both plans to December 1, 2017, and to notify you accordingly.

Effective Date of this Decision: March 23, 2018

How this Decision Affects Your Eligibility

You, your spouse's, and your oldest child's enrollment in a qualified health plan should have been effective December 1, 2017.

Your youngest three children's enrollment in a Child Health Plus plan should have been effective December 1, 2017.

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).

Your case is being sent back to NYSOH to change the start dates in both plans for all household members to December 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay directly the monthly premiums due for December 2017 to each health plan for coverage to take effect that month.

If You Disagree with this Decision (Appeal Rights)

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

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

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

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

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

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The November 17, 2017 eligibility determination notice was timely issued.

The November 17, 2017 plan enrollment notice is MODIFIED to state the enrollment start date in both the qualified health plan for you, your spouse, and your oldest child is effective December 1, 2017, and Child Health Plus plan for your three younger children is effective December 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes in the enrollment start dates in both plans to December 1, 2017, and to notify you accordingly.

You, your spouse's, and your oldest child's enrollment in a qualified health plan should have been effective December 1, 2017.

Your youngest three children's enrollment in a Child Health Plus plan should have been effective December 1, 2017.

Your case is being sent back to NYSOH to change the start dates in both plans for all household members to December 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay directly the monthly premiums due for December 2017 to each health plan for coverage to take effect that month.

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&btumi 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)

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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