



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

Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025463

[REDACTED]

Dear [REDACTED]

On February 12, 2018, you appeared by telephone, with the assistance of Interpreter Id [REDACTED], at a hearing on your appeal of NY State of Health's October 16, 2017 eligibility determination, November 21, 2017 eligibility determination, and November 26, 2017 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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Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025463

[REDACTED]

Issues

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

Did NY State of Health properly determine that your spouse was eligible to enroll in the Essential Plan and not eligible for Medicaid as of November 1, 2017.

Did NY State of Health properly determine that your spouse was eligible for Medicaid as of November 1, 2017, and no longer eligible for the Essential Plan as of November 30, 2017?

Did NY State of Health properly determine that your spouse's Medicaid Managed Care plan was effective January 1, 2018?

Procedural History

On August 27, 2017, NY State of Health (NYSOH) received a copy of your spouse's Form I-797C Notice of Action reflecting a category code of "C08." This document was reviewed and verified on October 14, 2017 as valid proof of your spouse's immigration status (see Document [REDACTED]).

On October 16, 2017, your spouse was found conditionally eligible for and enrolled in the Essential Plan as of November 1, 2017, based on an annual household income of \$6,283.03 and your spouse's citizenship status. Your spouse qualified for the Essential Plan because her household income was less than the allowable income limit and she was living in the United States under the color of law.

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On November 21, 2017, NYSOH issued an eligibility determination notice, based on your spouse's November 20, 2017 updated application, stating that that your spouse was eligible for Medicaid as of November 1, 2017. This was because her household income of \$6,283.03 was below the income limit for Medicaid.

Also on November 21, 2017, a disenrollment notice was issued stating that your Essential Plan coverage will end effective November 30, 2017. This was because she was no longer eligible to enroll in that plan.

On November 26, 2017, a plan enrollment notice was issued confirming your spouse's enrollment in a Medicaid Managed Care plan as of January 1, 2018.

On December 7, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of your spouse's Medicaid Managed Care plan start date insofar as it began on January 1, 2018 and not December 1, 2017.

On February 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing held open until February 27, 2018, to allow you time to submit supporting documents.

On February 12, 2018 you submitted a copy of your 2017 W-2 Wage Statement, a letter from your employer, dated February 12, 2018, and a copy of your spouse's Employment Authorization Card. These documents were made part of the record collectively as "Appellant's Exhibit A." No further documentation was received as of February 27, 2018, and the record was closed on that day.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you expect to file your 2017 taxes with a status of married filing single and you will claim no dependents on that tax return. Your spouse will not be filing taxes.
- 2) You are seeking health insurance for your spouse.
- 3) The applications that were submitted on behalf of your spouse on November 14, 2017 and November 20, 2017, in which you requested financial assistance, listed annual expected household income of \$6,283.03, consisting of income you earn from employment. You testified, and submitted documentation, that shows this was correct (see Appellant's Exhibit A, pp 1-2).
- 4) You testified that you are the sole provider in your household and your spouse has no sources of income.

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- 5) Your spouse's application states that she is an immigrant non-citizen.
- 6) You uploaded a copy of your spouse's Form I-797C Notice of Action reflecting a category code of "C08," which was verified by NYSOH on October 14, 2017. You testified, and submitted documentation, that this was your spouse's only immigration status (see Appellant's Exhibit A, p. 4).
- 7) The status of C-08, according to the United States Customs and Immigration Services (USCIS) and Social Security Administration (SSA) is in reference to a status classified as Asylum applicant (w/ pending asylum application) who filed for asylum on or after [REDACTED]
- 8) According to your NYSOH account, your spouse was found conditionally eligible for and enrolled in the Essential Plan as of November 1, 2017, based on an annual household income of \$6,283.00 and your spouse's citizenship status.
- 9) According to your NYSOH account and testimony, you updated your spouse's application and indicated that she was pregnant on [REDACTED] [REDACTED]. As a result, your spouse was found eligible for Medicaid as of November 1, 2017, based on an annual household income of \$6,283.03 and her pregnancy status.
- 10) According to your NYSOH account, on November 25, 2017, you selected a Medicaid Managed Care plan for your spouse with a start date of January 1, 2018.
- 11) You testified that you are seeking to have your spouse's enrollment in a health plan that will cover her medical expenses for the month of December 2017.
- 12) According to your NYSOH account, you and your spouse resides in Kings County, New York.

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

Applicable Law and Regulations

Household Size

"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,

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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)).

In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

For purposes of Medicaid eligibility, 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 (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).

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 October 14, 2017 application for your spouse, that was the 2016 FPL, which is \$16,020.00 for a two-person household and \$20,160.00 for a three-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>).

Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is

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satisfactory and he or she meets all other requirements for Medicaid (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 October 14, 2017 application on behalf of your spouse, that was the 2017 FPL, which is \$16,240.00 for a two-person household and \$20,420.00 for a three- person household (82 Fed. Reg. 8831).

In NY State, qualified immigrants and certain immigrants who are persons living in the United States under the color of the law (PRUCOL) who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency or certain PRUCOL immigrants (18 NYCRR § 349.3, 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>).

However, Under Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009, state Medicaid programs may cover temporary non-immigrant and certain other groups of pregnant women and children who are “lawfully residing” in the United States. The Centers for Medicare & Medicaid Services (CMS) has interpreted the term “lawfully residing” to mean individuals who are “lawfully present” in the United States and who are state residents. New York State (NYS) has elected to provide Medicaid coverage to pregnant women who are lawfully present and reside in the state. New York State began receiving federal financial participation for the groups retroactive to April 1, 2009 [See State Health Official Letter #10-006, issued July 1, 2010, entitled “Medicaid and CHIP Coverage of “Lawfully Residing” Children and Pregnant Women”, and see GIS 13/MA-011, p. 1].

Medicaid – Effective Date

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-

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6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse was conditionally eligible to enroll in the Essential Plan and not eligible for Medicaid, as of November 1, 2017.

The application that was submitted on October 15, 2017, listed an annual household income of \$6,283.00 and the eligibility determination relied upon that information.

According to your NYSOH account and testimony, you expect to file your 2017 taxes with a status of married filing single and you will claim no dependents on that tax return. Your spouse will not be filing taxes. Since each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return, your spouse is in a two-person household for purposes of this analysis.

The Essential Plan is provided through NYSOH to lawfully present individuals, who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. 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.

On the date of your spouse's October 14, 2017 application, the relevant FPL (2016) for the Essential Plan was \$16,020.00 and the relevant FPL (2017) for Medicaid was \$16,240.00, both for a two-person household. Since an annual income of \$6,283.00 is 39.22% of the 2016 FPL and 38.69% of the 2017 FPL, your spouse met the financial eligibility criteria for both the Essential Plan and Medicaid.

However, you testified, and submitted documentation to show, that your spouse's C-08 status is her only immigration status (see Appellant's Exhibit A, p. 4; Document [REDACTED]). The status of C-08, according to USCIS and SSA is in reference to a status classified as Asylum applicant (w/ pending asylum application). The record reflects your spouse filed for asylum on or after January 4, 1995. Based on this citizenship status, your spouse is considered "PRUCOL" for eligibility determination purposes.

As of January 1, 2016, certain lawfully present non-citizens who were receiving Medicaid through NYS, but were not eligible for Medicaid under federal law due

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to being classified as “PRUCOL,” were transitioned to and must receive coverage through the Essential Plan. Therefore, because your spouse was a lawfully present non-citizen with a classification of “PRUCOL,” NYSOH properly determined that she did not meet the non-financial requirements for Medicaid. Since your spouse met the non-financial and financial requirements for the Essential Plan, NYSOH properly determined her to be eligible for Essential Plan coverage and enrolled as of the date of her October 14, 2017 application.

Therefore, the October 16, 2017, eligibility determination notice properly stated that, based on the information you provided, your spouse was eligible for the Essential Plan effective November 1, 2017, was correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly redetermined your spouse eligible for Medicaid and no longer eligible for the Essential Plan.

According to your NYSOH account and testimony, you updated your spouse's application and indicated that she was pregnant [REDACTED]. This application listed annual household income of \$6,283.03, consisting of income you earn from employment. You also indicated you expect to file your 2017 taxes with a status of married filing single and you will claim no dependents on that tax return. Your spouse will not be filing taxes.

As stated hereinabove, in the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return. However, for purposes of Medicaid eligibility, the household size of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver. Because your spouse was pregnant., for purposes of this analysis, your spouse was in a three-person household at the time of this application.

On the date of your spouse's November 20, 2017 application, the relevant FPL (2016) for the Essential Plan was \$20,160.00 and the relevant FPL (2017) for Medicaid was \$20,420.00, both for a three-person household. Since an annual income of \$6,283.00 is 31.17% of the 2016 FPL and 30.77% of the 2017 FPL, your spouse met the financial eligibility criteria for both the Essential Plan and Medicaid.

As stated above, certain individuals who have been classified “PRUCOL” and were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016.

However, this is not the case for pregnant women. You updated your spouse's application and initially informed NYSOH that she was pregnant on November 20, 2017. Although, your spouse's I-797C - Notice of Action states that she is “PRUCOL” based on her C-08 immigrant status, because she is pregnant and a resident of NYS, this changes her legal status for purposes of the federal definitions to “lawfully residing in the United States.” Therefore, she is recognized

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as eligible to receive federally funded Medicaid. As such and since Medicaid eligibility and Fee-For Service coverage is effective on the first day of the month in which that applicant is found eligible for Medicaid, and your spouse was found eligible for Medicaid on November 20, 2017, NYSOH properly determined that she was eligible for Medicaid, based on an annual household income of \$6,283.03 and her pregnancy status, effective November 1, 2017.

Because your spouse is pregnant and met the non-financial criteria and financial criteria to be eligible for Medicaid as of November 20, 2017, she was also no longer eligible for the Essential Plan.

Therefore, the November 21, 2017 eligibility determination notice stating that, based on the information you provided, your spouse was eligible for Medicaid effective November 1, 2017, is correct and must be AFFIRMED.

As such, it follows that the November 21, 2017 disenrollment notice confirming your spouse's termination of her Essential Plan as of November 30, 2017, is also correct and must be AFFIRMED.

The third issue under review is whether NYSOH properly determined that your spouse's Medicaid Managed Care plan was effective January 1, 2018.

According to your NYSOH account, you updated your spouse's application for financial assistance through NYSOH on November 20, 2017. That day, she was found fully eligible for Medicaid coverage as of November 1, 2017.

However, the date on which a Medicaid Managed Care 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 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.

The record reflects that, on November 25, 2017, you selected a Medicaid Managed Care plan for your spouse, so it properly took effect on the first day of the second month following November 2017; that is, on January 1, 2018.

Therefore, the November 26, 2017 plan enrollment notice stating that your spouse's enrollment in her Medicaid Managed Care plan would be effective January 1, 2018, is correct and must be AFFIRMED.

Decision

The October 16, 2017 eligibility determination notice is AFFIRMED.

The November 21, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The November 26, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: March 22, 2018

How this Decision Affects Your Eligibility

This Decision does not change your spouse's eligibility.

Your spouse was not eligible for the Essential Plan as of November 20, 2017.

Your spouse's Essential Plan coverage ended as of November 30, 2017.

The effective date of your spouse's Medicaid Fee-For Service is November 1, 2017.

The effective date of your spouse's Medicaid Managed Care plan is January 1, 2018.

If You Disagree with this Decision (Appeal Rights)

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

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

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

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

- By calling the Customer Service Center at 1-800-318-2596

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

Summary

This Decision does not change your spouse's eligibility.

The October 16, 2017 eligibility determination notice is AFFIRMED.

The November 21, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The November 26, 2017 plan enrollment notice is AFFIRMED.

Your spouse was not eligible for the Essential Plan as of November 20, 2017.

Your spouse's Essential Plan coverage ended as of November 30, 2017.

The effective date of your spouse's Medicaid Fee-For Service is November 1, 2017.

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The effective date of your spouse's Medicaid Managed Care plan is January 1, 2018.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

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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 sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אַײַדיש (Yiddish)

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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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