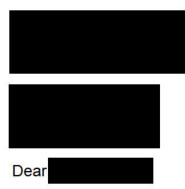


STATE OF NEW YORK DEPARTMENT OF HEALTH P.O. Box 11729 Albany, NY 12211

#### Notice of Decision

Decision Date: May 4, 2018

NY State of Health Account ID: Appeal Identification Number: AP00000028153



On April 10, 2018, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 2018 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 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.



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

Decision

Decision Date: May 4, 2018

NY State of Health Account ID:

Appeal Identification Number: AP00000028153



#### Issues

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid for the month of September 2017?

Did NYSOH properly determine that you were not eligible for Medicaid for the month of October 2017?

## **Procedural History**

On June 5, 2017, NYSOH received your updated application for health insurance.

On June 6, 2017, NYSOH issued a notice stating that the income information in your application does not match what NYSOH received from state and federal data sources. You were asked to provide proof of your current household income by June 20, 2017 in order to determine your eligibility.

No documentation was received by June 20, 2017.

On July 1, 2017, NYSOH issued a notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective August 1,

2017. This notice stated that you were not eligible for financial assistance because you failed to complete the requirements to obtain Medicaid.

On July 10, 2017, NYSOH received your updated application for health insurance.

On July 11, 2017, NYSOH issued a notice stating that the income information in your application does not match what NYSOH received from state and federal data sources. You were asked to provide proof of your current household income by July 25, 2017 in order to determine your eligibility.

No documentation was received by July 25, 2017.

On August 5, 2017, NYSOH issued a notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective August 1, 2017. This notice stated that you were not eligible for financial assistance because you failed to complete the requirements to obtain Medicaid.

On November 10, 2017, NYSOH received your updated application for health insurance.

On November 11, 2017, NYSOH issued a notice stating that the income information in your application does not match what NYSOH received from state and federal data sources. You were asked to provide proof of your current household income by November 25, 2017 in order to determine your eligibility.

On November 16, 2017, you uploaded income documentation to your NYSOH account.

On November 18, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were asked to submit additional proof of your income by December 10, 2017.

On December 1, 2017, you uploaded income documentation to your NYSOH account.

On December 5, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were asked to submit additional proof of your income by December 25, 2017.

On December 14, 2017, you uploaded income documentation to your NYSOH account.

On December 15, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were asked to submit additional proof of your income by December 25, 2017.

No additional documentation was received by December 25, 2017.

On January 5, 2018, NYSOH issued an eligibility determination notice stating that you do not qualify for health coverage through NYSOH. You did not qualify for Medicaid because you did not provide the income documentation needed to verify the income listed in your application and the date to submit that information had passed. The notice stated that you did not qualify for the Essential Plan or premium tax credits and cost sharing reductions because you did not complete the requirements for obtaining Medicaid coverage.

On January 10, 2018, you uploaded income documentation to your NYSOH account. An NYSOH representative then updated the income information in your application based on this documentation, and submitted an application on your behalf.

On January 11, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for a tax credit of up to \$394.00 per month as well as cost-sharing reductions, effective February 1, 2018. You were not eligible for the Essential Plan or Medicaid because your income was over the allowable income limit for that program.

On January 31, 2018, you submitted an application for financial assistance with health insurance and indicated that you were seeking help for paying for medical bills for October 2017. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan, effective March 1, 2018.

Also on January 31, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you had outstanding medical bills from prior months that you wanted payment for.

On February 1, 2018, NYSOH issued an eligibility determination notice stating that your request for help paying for medical bills for October 1, 2017 through October 31, 2017 was denied because the program you were eligible for cannot pay for any care you received in the past.

Also on February 1, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan, effective March 1, 2018.

Finally, on February 1, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan as of March 1, 2018.

On March 27, 2018, you were scheduled for a hearing with a Hearing Officer from NYSOH's Appeals Unit. That day, a Hearing Officer called you and your authorized representative but your authorized representative was unable to

clarify what the issue was or remedy you were seeking through this appeal. The Hearing Officer adjourned the hearing to April 10, 2018 in order for your authorized representative to review the Evidence Packet and information in your NYSOH account so that he could clarify what you were seeking through the appeal.

On April 10, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you, your authorized representative, and your spouse all provided testimony. The issue was clarified to be about the outstanding medical bills you had from the months of September and October 2017 and you were not seeking coverage for August, November, December, January, and February. The record was developed during the hearing and held open up to April 25, 2018, to allow you time to submit income documents for yourself and your spouse for September and October 2017.

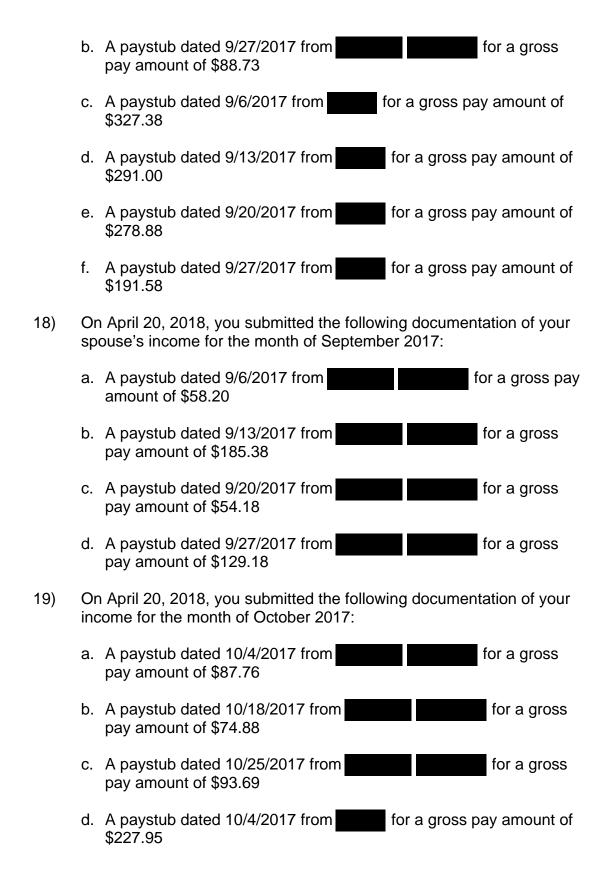
On April 20, 2018, several income documents were uploaded to your NYSOH account, they were collectively marked as Appellant's and incorporated into the record, the record was closed that day.

## **Findings of Fact**

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

- You testified that you are seeking coverage for September and October 2017 because you have outstanding medical bills for those months.
- Your authorized representative testified that you first started attempting to apply for health insurance back in August 2017 but a technical issue with the application prevented you from doing anything with the account.
- 3) A review of the call log associated with your NYSOH account confirms that there were defects in the account starting August 8, 2017 that were not resolved until November 2017.
- 4) You submitted an application for health insurance on November 10, 2017. That application did not request assistance in paying for bills in any prior months.
- 5) You were placed in a pending Medicaid status from November 1, 2017-December 31, 2017. Your eligibility was contingent on you submitting sufficient documentation of your income.

6)	Your authorized representative testified that you had two accounts and that you were submitting income documentation but that it was uploaded to the incorrect account.
7)	There has been no activity in your now inactive account since September 16, 2016. The account does not contain any documents that have been submitted by you and was made inactive on July 10, 2017.
8)	On January 31, 2018, you submitted an application for financial assistance. On this application, you indicated that you were seeking help for paying for medical bills for October 2017.
9)	You or your authorized representative placed calls to NYSOH on September 29, 2017, November 8, 2017, November 11, 2017, November 28, 2017, December 4, 2017, and December 7, 2017.
10)	You testified, and provided documentation, that you filed your 2017 tax return with a tax filing status of married filing jointly. You claimed no dependents on that income tax return.
11)	You testified that in September 2017 you worked at and
12)	You testified that in October 2017, you only worked at because closed.
13)	You submitted a letter from dated September 11, 2017 that states that would be closing in the near future.
14)	Your spouse testified that she worked at in September and October 2017, as well as
15)	You testified that when you and your spouse work, the pay varies and that you do not work consistently every week given the nature of the work.
16)	Your spouse testified that in the months of September and October 2017, she received \$519.00 in Social Security Title II benefits.
17)	On April 20, 2018, you submitted the following documentation of your income for the month of September 2017:
	a. A paystub dated 9/13/2017 from pay amount of \$154.74



- 20) On April 20, 2018, you submitted the following documentation of your spouse's income for the month of October 2017:
  - a. A paystub dated 10/4/2017 from pay amount of \$33.48
  - b. A paystub dated 10/25/2017 from pay amount of \$78.91
  - c. A paystub dated 10/6/2017 from for a gross pay amount of \$43.56
  - d. A paystub dated 10/13/2017 from for a gross pay amount of \$51.25
  - e. A paystub dated 10/20/2017 from for a gross pay amount of \$51.25
  - f. A paystub dated 10/27/2017 from for a gross pay amount of \$51.25

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

## **Applicable Law and Regulations**

#### De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500). Among the express grounds for a de novo appeal is "a failure by the Exchange to provide timely notice of an eligibility determination" (45 CFR § 155.505(b))."

#### Medicaid for Adults between the Ages of 19 and 65

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

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

#### Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for the month of September 2017.

You testified that you are seeking coverage for September and October 2017 because you have outstanding medical bills for those months. However, the record does not contain an application in which you requested your eligibility for help in paying for medical bills in September 2017 to be determined and as such there is no notice of eligibility determination pertaining to that month.

Here, the lack of a notice of eligibility determination on the issue of retroactive Medicaid coverage for the month of September 2017 does not prevent the Appeals Unit from reaching the merits of the case or constitute material error.

Your authorized representative testified that you first started attempting to apply for health insurance back in August 2017 but a technical issue with the application prevented you from doing anything with the account. You or your authorized representative placed calls to NYSOH on September 29, 2017, November 8, 2017, November 11, 2017, November 28, 2017, December 4, 2017, and December 7, 2017. Therefore, it is concluded that you attempted to obtain coverage for September 2017 but were denied from doing so.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

You are in a two-person household; you testified, and provided documentation, that you filed your 2017 tax return with a tax filing status of married filing jointly and claimed no dependents on that income tax return.

You submitted an application for financial assistance on November 10, 2017, however you did not request help for paying for bills for any prior months on that application. As discussed above, we will however address your request for September 2017 coverage in this decision.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in September 2017, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,868.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during September 2017.

In the month of September 2017, your household income consisted of paychecks that you received from a source and as well as paychecks your spouse received from and her Social Security disability benefit. Therefore, in the month of September 2017, your gross monthly income was \$2,278.25.

Since your income of \$2,278.25 was more than the \$1,868.00 monthly Medicaid limit for September 2017, you are not eligible for Medicaid coverage in the month of September 2017.

Though there is evidence in the record that a technical defect occurred in your account in August 2017 that may have prevented you from enrolling into coverage for September 2017, there is not enough evidence in the record that supports returning your case to allow you to enroll in alternate coverage for that month. When you were able to submit an application for health insurance in November 2017, you were placed in a pending Medicaid status from November 1, 2017-December 31, 2017 contingent on you submitting sufficient documentation of your income. Your authorized representative testified that you had two accounts and that you were submitting income documentation but that it was uploaded to the incorrect account. However, there has been no activity in your now inactive account (account that have been submitted by you and was made inactive on July 10, 2017. Therefore, the record indicates that

sufficient documentation to resolve discrepancies in your account was not submitted until January 10, 2018.

Furthermore, you were able to successfully update your account in June and July 2017. You were asked to submit documentation to confirm your information after both of those updates however you failed to do so.

As such, the record does not support that had you been able to submit an application in August 2017 that you would have gained full eligibility from that application that would have allowed you to enroll in a plan.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for the month of October 2017.

On January 31, 2018, you submitted an application for financial assistance with health insurance and indicated that you were seeking help for paying for medical bills for October 2017.

On February 1, 2018, NYSOH issued an eligibility determination notice stating that your request for help paying for medical bills for October 1, 2017 through October 31, 2017 was denied because the program you were eligible for cannot pay for any care you received in the past.

When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

To be eligible for Medicaid in October 2017, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,868.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during October 2017.

In the month of October 2017, your household income consisted paychecks that you received from and one paycheck from as well as paychecks your spouse received from and her Social Security disability benefit. Therefore, in the month of October 2017, your gross monthly income was \$1,312.98.

Since your income of \$1,312.98 was less than the \$1,868.00 monthly Medicaid limit for October 2017, the February 1, 2018 eligibility determination notice stating that your request for help paying for medical bills for October 1, 2017 through October 31, 2017 was denied is RESCINDED.

Since the record now contains a more accurate representation of what your income was for the month of October 2017, your case is RETURNED to NYSOH to redetermine your eligibility for retroactive coverage for October 2017 based on a household of two people and a monthly income for October 2017 of \$1,312.98.

Your case is RETURNED to NYSOH to redetermine your eligibility for retroactive coverage for October 2017 based on a household of two people and a monthly income for October 2017 of \$1,312.98.

#### **Decision**

You are not eligible for Medicaid coverage in September 2017.

The February 1, 2018 eligibility determination notice regarding your eligibility for coverage in October 2017 is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for retroactive coverage for October 2017 based on a household of two people and a monthly income for October 2017 of \$1,312.98.

Effective Date of this Decision: May 4, 2018

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

You are not eligible for Medicaid in the month of September 2017.

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility for October 2017 based on the evidence you presented at the hearing.

## 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.

# 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

You are not eligible for Medicaid coverage in September 2017.

The February 1, 2018 eligibility determination notice regarding your eligibility for coverage in October 2017 is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for retroactive coverage for October 2017 based on a household of two people and a monthly income for October 2017 of \$1,312.98.

This is not a final determination of your eligibility for October 2017. Your case is sent back to NYSOH to redetermine your eligibility for October 2017 based on the evidence you presented at the hearing.

## **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.

#### <u>中文 (Traditional Chinese)</u>

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。我们可以为您免费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.

#### <u>한국어 (Korean)</u>

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.

#### (Arabic)العربية

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

#### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নিখি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কখা 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।

#### <u>日本語 (Japanese)</u>

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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. yebetumi ama wo obi a okyere kasa a woka no ase ama wo kwa a wontua hwee.

#### اردو(Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-485-1 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.