



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

## Notice of Decision

Decision Date: April 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028444

[REDACTED]

[REDACTED]

On April 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 12, 2018 discontinuance notice and January 12, 2018 disenrollment 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028444

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your four older children's eligibility for Medicaid and their enrollment in their Medicaid Managed Care plan ended, effective January 31, 2018?

## Procedural History

On January 10, 2017, NYSOH issued a notice of eligibility determination stating that your four older children were eligible for Medicaid, effective January 1, 2017.

Also on January 10, 2017, NYSOH issued a notice confirming your four older children's enrollment in a Medicaid Managed Care plan.

On October 24, 2017, NYSOH issued a renewal notice, stating that it was time to renew your four older children's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your four older children would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2017 or your four older children were at risk of losing their health insurance coverage and, if applicable, any financial assistance.

On December 1, 2017, you updated your household's application for health insurance and financial assistance through NYSOH.

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

On December 2, 2017, NYSOH issued a notice of eligibility determination stating that your four older children were conditionally eligible for Medicaid, effective January 1, 2018. This notice stated that you would need to provide additional information in order to confirm your four older children's eligibility and that additional information about what documents you needed to provide to NYSOH could be found in the section labeled "request for additional information to confirm your eligibility". The section labeled "request for additional information to confirm your eligibility" indicates that additional information was required to confirm eligibility for members of your household and that you needed to provide proof of income by March 1, 2018 in order to confirm your spouse's eligibility.

On December 4, 2017, NYSOH reviewed the income documentation you uploaded to your account and determined that this was insufficient to resolve the inconsistency in your account.

On December 5, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice directed you to submit proof of income by December 31, 2017 to confirm your four older children's eligibility.

On January 5, 2018, you updated your household's application for health insurance. Specifically, you added your newborn to your account.

On January 6, 2018, NYSOH issued a notice of eligibility determination stating that your four older children were conditionally eligible for Medicaid, effective February 1, 2018. This notice directed you to provide documentation of your household's income before December 31, 2017 in order to confirm your four older children's eligibility for financial assistance.

On January 12, 2018, NYSOH issued a discontinuance notice stating that your four older children were no longer eligible for health insurance through NYSOH. The notice stated that your four older children did not qualify for health coverage through NYSOH because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective February 1, 2018.

Also on January 12, 2018, NYSOH issued a disenrollment notice stating that your four older children's enrollment in their Medicaid Managed Care plan would end as of January 31, 2018, because they were no longer eligible to enroll in health insurance through NYSOH.

On January 19, 2018, you uploaded additional income documentation to your NYSOH account.

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On January 22, 2018, NYSOH reviewed the income documentation you submitted, recalculated your household income based on this documentation, and submitted an updated application on your behalf.

On January 23, 2018, NYSOH issued a notice of eligibility determination stating that your four older children were eligible for Child Health Plus with a \$0.00 monthly premium, effective March 1, 2018.

Also on January 23, 2018, NYSOH issued an enrollment confirmation notice, based on your plan selection on January 22, 2018, stating that your four older children were enrolled in their Child Health plus plan with a plan enrollment start date of March 1, 2018.

On February 5, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your children were without coverage for the month of February 2018.

On April 6, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH 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) You testified that you are seeking for your four older children to have coverage for the month of February 2018 as they have outstanding medical bills for services received in that month.
- 2) You testified that you believe you were given misinformation by NYSOH representatives which resulted in your delay in submitting sufficient documentation of your household income.
- 3) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 4) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 5) You updated your household's application for financial assistance on December 1, 2017. As a result, your four older children were found conditionally eligible for Medicaid, effective January 1, 2018.
- 6) The record reflects that on December 1, 2017 you placed a phone call to NYSOH. A review of the recording of that phone call reveals that you were calling in response to the October 24, 2017 renewal notice. You completed your application with an NYSOH representative. The NYSOH

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representative advised you that you must submit documentation of your household income within fifteen days in order to confirm your children's Medicaid eligibility. The NYSOH representative initially advised you that you needed to submit your spouse's two most recent biweekly paystubs as well as your signed and dated 1040 for 2016. You then inquired as to what you could submit if you were unable to locate your 2016 1040. The NYSOH representative then informed you that you did not need to submit documentation of your income, and that NYSOH was only seeking to verify your spouse's income, therefore, your spouse's two most recent biweekly paystubs would be sufficient to confirm your children's eligibility.

- 7) On December 1, 2017, you uploaded income documentation to your NYSOH account consisting of two of your spouse's biweekly paystubs.
- 8) You testified that you did receive an electronic alert which notified you of the December 2, 2017 notice stating that your four older children's eligibility was only conditional and you that needed to provide documentation.
- 9) The December 2, 2017 eligibility determination notice failed to provide you with notice regarding the type of documentation needed to confirm your children's eligibility or the due date for this documentation.
- 10) On December 4, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as you had not submitted income documentation for yourself, only your spouse.
- 11) On December 5, 2017, NYSOH issued a notice advising you that additional income documentation was needed to confirm your four older children's eligibility for financial assistance and that this documentation was due by December 31, 2017. This notice provided a list of types of acceptable income documentation.
- 12) You testified that you did receive an electronic alert which notified you of the December 5, 2017 notice stating that the income documentation you submitted was insufficient and that you needed to provide additional documentation.
- 13) The record reflects that on December 11, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to follow-up on the status of your four older children's coverage. The NYSOH representative advised you that the previous NYSOH representative was incorrect when he informed you that you did not need to submit any income documentation for yourself, and directed you to submit a spreadsheet showing your business income and expenses for the last three months or your 2016 tax return.

- 14) On January 5, 2018, you updated your household's application for financial assistance, specifically, you added your newborn to your account. As a result, your four older children were found conditionally eligible for Medicaid, effective February 1, 2018.
- 15) The record reflects that on January 5, 2018, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to report the birth of your newborn as well as to follow-up on the status of your four older children's coverage. The NYSOH representative informed you that your four older children were again found eligible for Medicaid, but that this eligibility was only conditional, and that you must submit documentation of your household income within fifteen days in order to confirm your four older children's eligibility.
- 16) You testified that you did not receive an electronic alert notifying you of the January 6, 2018 notice stating that your four older children's eligibility was only conditional and that you needed to provide documentation of your household income by December 31, 2017.
- 17) Your NYSOH account indicates that on January 11, 2018, your household's application was run and your four older children were found no longer eligible to enroll in health insurance through NYSOH effective February 1, 2018.
- 18) On January 19, 2018, you uploaded additional income documentation to your NYSOH account consisting of two of your spouse's biweekly paystubs and your 2016 tax return showing your income from a business.
- 19) On January 22, 2018, NYSOH verified the income documentation you submitted, recalculated your household income, and submitted an application on your behalf. As a result, your four older children were found eligible for Child Health Plus as of March 1, 2018.
- 20) Also on January 22, 2018, you contacted NYSOH and selected a Child Health Plus plan for enrollment for your four older children.
- 21) The record reflects that on January 22, 2018, you placed a call to NYSOH. A review of the recording of that phone call reflects that you were calling in response to the January 12, 2018 disenrollment notice. The NYSOH representative informed you that your older four children's coverage was all set, and that you just needed to select a plan.
- 22) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" 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”.

23) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the January 6, 2018 eligibility determination notice.

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

## **Applicable Law and Regulations**

### Verification of Eligibility for Medicaid

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)).

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 (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).

NYSOH cannot terminate eligibility for Medicaid unless NYSOH has sought additional information from an applicant and provided proper notice (45 CFR §435.952(d)).

### 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

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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).

### 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 issue under review is whether NYSOH properly determined that your four older children’s eligibility for Medicaid and their enrollment in their Medicaid Managed Care plan ended, effective January 31, 2018.

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, NYSOH must request income data from data sources in order to verify an individual’s income attestation.

If NYSOH cannot verify an individual’s attestation, it must provide the individual the opportunity to submit satisfactory documentary evidence.

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In the eligibility determination issued on December 2, 2017, you were advised that your four older children were conditionally eligible for Medicaid and that you needed to provide documentation to confirm your children's eligibility. This notice failed to advise you what documentation was required and when this documentation was due. Rather, the notice indicated that income documentation was required by March 1, 2018 in order to confirm your spouse's eligibility.

Therefore, even though you received the December 2, 2017 eligibility determination notice, this notice did not provide you with sufficient notice in order to provide satisfactory documentary evidence.

In the notice issued on December 5, 2017, you were advised that the income documentation you submitted was insufficient to resolve the inconsistency in your account. This notice advised you that income documentation was due by December 31, 2017 in order to confirm your children's eligibility. This notice also included a list of types of acceptable income documentation.

Thereafter, on January 5, 2018, you updated your household's application for financial assistance. As a result of this application, your older four children were again found conditionally eligible for Medicaid. At that time, the NYSOH representative informed you that you had fifteen days to submit documentation of your household income.

The record reflects that you submitted sufficient income documentation on January 19, 2018, within the fifteen-day deadline of which you were verbally advised.

However, in the eligibility determination issued on January 6, 2018, you were advised that your four older children were conditionally eligible for Medicaid, and that you needed to confirm your household's income before December 31, 2017.

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 January 6, 2018. You credibly testified that you did not receive an electronic alert regarding this eligibility determination notice, which directed you that your four older children's eligibility was limited and that you needed to submit documentation to confirm the household income in your application by December 31, 2017. 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.

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The record reflects that on January 5, 2018, you contacted NYSOH in order to confirm your older four children's eligibility for financial assistance with health insurance. At which time, you were provided with information that your older four children remained conditionally eligible for Medicaid, and that you had fifteen days to submit sufficient income documentation.

There is no evidence that NYSOH sent you an email alert regarding the January 6, 2018 eligibility determination notice, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you by electronic means with proper notice as of January 6, 2018 that you needed to submit documentation of your household income by December 31, 2018 in order to continue your children's eligibility for financial assistance and health insurance.

Had you been provided proper information on January 5, 2018 or had you received the January 6, 2018 eligibility determination notice, you could have submitted sufficient income documentation.

Therefore, the January 12, 2018 discontinuance notice and the January 12, 2018 disenrollment notice, stating that your four older children were no longer eligible for Medicaid and disenrolled from their Medicaid Managed Care plan because you failed to submit documentation are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your four older children's coverage in their Medicaid Managed Care plan from February 1, 2018 through February 28, 2018.

## **Decision**

The January 12, 2018 discontinuance notice is RESCINDED.

The January 12, 2018 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your four older children's coverage in their Medicaid Managed Care plan from February 1, 2018 through February 28, 2018.

**Effective Date of this Decision: April 30, 2018**

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

NYSOH erred in terminating your four older children's Medicaid and Medicaid Managed Care plan effective January 31, 2018, without the proper notice.

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 reinstate your four older children's coverage in their Medicaid Managed Care plan from February 1, 2018 to February 28, 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
- 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:

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- 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**

The January 12, 2018 discontinuance notice is RESCINDED.

The January 12, 2018 disenrollment notice is RESCINDED.

NYSOH erred in terminating your four older children's Medicaid and Medicaid Managed Care plan effective January 31, 2018, without the proper notice.

Your case is RETURNED to NYSOH to reinstate your four older children's coverage in their Medicaid Managed Care plan from February 1, 2018 through February 28, 2018.

Your case is being sent back to NYSOH to reinstate your four older children's coverage in their Medicaid Managed Care plan from February 1, 2018 to February 28, 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 bεtumi 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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