

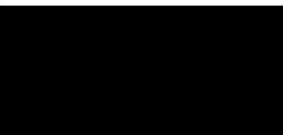


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029216



Dear [REDACTED]

On May 1, 2018, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2017 discontinuance and disenrollment notices, and February 22, 2018 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029216



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 your newborn child's eligibility for Child Health Plus and enrollment in his Child Health Plus terminated effective December 31, 2017?

Did NYSOH properly provide your newborn child with timely determination of his Child Health Plus eligibility based on the January 24, 2018 application?

Did NYSOH properly determine that your newborn child's eligibility for Child Health Plus and enrollment in his Child Health Plus plan was effective April 1, 2018?

Procedural History

On September 14, 2017, your newborn child (child) was added to your NYSOH account and an application for health insurance was submitted on his behalf.

On September 15, 2017, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective September 1, 2017. The notice requested that you provide documentation confirming his citizenship status and Social Security number before December 13, 2017.

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Also on September 15, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan, effective September 1, 2017.

On December 21, 2017, NYSOH issued an eligibility determination notice stating that your child was not qualified to enroll in health insurance coverage through NYSOH, effective January 1, 2018. This was because NYSOH did not receive proof of his citizenship or social security number to verify his eligibility by the December 13, 2017 deadline.

Also on December 21, 2017, NYSOH issued a disenrollment notice stating that your child's coverage in his Child Health Plus plan would end on December 31, 2018, because he was no longer eligible to enroll in health insurance through NYSOH.

On January 24, 2018, your child's Social Security number was added to your NYSOH account and an application was submitted on his behalf.

On January 25, 2018, NYSOH issued a notice stating that more information was needed to determine your child's eligibility for health insurance. The notice explained that the income information in his application did not match federal and state data sources. That notice requested that you submit proof of his household income by February 8, 2018.

On February 6, 2018, NYSOH received income documentation you submitted by fax. That same day, a NYSOH representative reviewed that documentation and determined it was insufficient to verify your child's household income.

On February 7, 2018, NYSOH issued a notice stating, in relevant part, that the documentation reviewed did not match information NYSOH received from state and federal data sources, and that additional documentation was required to confirm your child's eligibility. The notice directed you to provide additional proof of your child's household income by February 23, 2018, to confirm his eligibility.

On February 22, 2018, you updated your child's application for health insurance. That day, a preliminary determination was prepared stating that your child was eligible for Child Health Plus with a \$15.00 monthly premium, beginning April 1, 2018.

Also on February 22, 2018, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination because your child had a gap in his Child Health Plus coverage for the months of January 2018, February 2018 and March 2018.

On February 23, 2018, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus with a \$15.00 monthly premium, effective April 1, 2018.

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).

Also on February 23, 2018, NYSOH issued a plan enrollment notice confirming your child's enrollment began on April 1, 2018.

On May 1, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During that hearing Spanish Interpreter [REDACTED] interpreted. You appeared at the hearing, and your spouse appeared at the hearing as an Authorized Representative, and you were both sworn in. The record was developed during the hearing and held open until March 16, 2018 to allow you time to submit supporting documents.

As of May 16, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

Findings of Fact

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

- 1) You testified that you are appealing your child's gap in health care coverage for the months of January 2018, February 2018 and March 2018.
- 2) Your child was born on [REDACTED] [REDACTED] [REDACTED]
- 3) According to your NYSOH account and your spouse's testimony, on September 14, 2017 your child was added to your NYSOH account.
- 4) The application submitted on September 14, 2018 indicates that your child is a US Citizen but did not have a Social Security number because you were in the process of applying for one.
- 5) According to your NYSOH account, you were asked to submit proof of your child's social security number by December 13, 2017.
- 6) According to your NYSOH account and your testimony, on January 24, 2018 your youngest child's social security number was added to your NYSOH account, and application for health insurance was submitted on his behalf.
- 7) The application submitted on January 24, 2018 states that you and your spouse expect to file your 2018 tax return as married filing jointly, and will claim four dependents on that tax return.

- 8) The application submitted on January 24, 2018 lists an expected annual household income of \$48,400.00.
- 9) According to your NYSOH account, on February 22, 2018 you updated the household income in your NYSOH account to \$79,200.01. That same day, an application was submitted on your child's behalf and a plan was selected for his enrollment.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice

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is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Medicaid for Children

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 2018 FPL, which was \$33,740.00 for a six-person household (83 Fed. Reg. 2642).

Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH

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is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

Timely Notice of Child Health Plus Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

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

Legal Analysis

The issue under review is whether NYSOH properly determine that your child's eligibility for Child Health Plus and enrollment in his Child Health Plus terminated effective December 31, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that your youngest child was added to your NYSOH account on September 14, 2017. The application that was submitted that day indicates

that your child was a U.S Citizen but did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on September 15, 2017 you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his Social Security number and citizenship status before December 13, 2017.

The record indicates that your child's Social Security number was not provided to NYSOH by the December 13, 2017 deadline.

On December 21, 2017 NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective December 31, 2017 because he was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued that day, this was because NYSOH did not receive documentation of his citizenship status and Social Security number.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from his Child Health Plus plan was dated December 21, 2017. Therefore, the notice terminating your child's enrollment would be considered received as of December 26, 2017.

When changes are made to an individual's application after the fifteenth of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's Child Health Plus eligibility after the fifteenth of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until February 1, 2018.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your child for the month of January 2018. The December 21, 2017 discontinuance and disenrollment notices are MODIFIED to reflect a January 31, 2018 end date.

Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus plan for the month of January 2018.

The second issue is whether NYSOH provided your child with timely determination of his Child Health Plus eligibility based on your January 24, 2018 application.

For all individuals whose income is needed to calculate the household's Medicaid 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.

On January 24, 2018 you submitted an application for financial assistance on behalf of your child. The household income listed in that application, \$48,400.00, did not match information NYSOH received from federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your child's household income.

On February 6, 2018, NYSOH reviewed the income documentation you provided and determined it was insufficient to validate your child's household income because it did not match information NYSOH received federal and state data sources. You were asked to submit additional proof of your household income by February 23, 2018.

On February 22, 2018, you contacted NYSOH by telephone and updated the household income in your NYSOH account to \$79,200.01, and an application was submitted. The household income listed in that application reflected information NYSOH received from federal and state data sources. Therefore, no additional proof of your income was required, and your child's application was considered complete as of February 22, 2018 for the purposes of issuing an eligibility determination.

NYSOH must provide applicants who are a child younger than one year of age notice of their eligibility determination within 30 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Since your child's application was considered complete as of February 22, 2018, and NYSOH issued an eligibility determination the next day, on February 23, 2018, NYSOH issued a timely eligibility determination notice.

The third issue is whether NYSOH properly determined that your child's eligibility for Child Health Plus and enrollment in his Child Health Plus plan was effective April 1, 2018.

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.

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You selected a Child Health Plus plan for your child on February 22, 2018, so his enrollment properly took place on the first day of the second month following February 2018; that is on April 1, 2018.

Therefore, the February 23, 2018 eligibility determination notice stating that your child's eligibility for Child Health Plus was effective as of April 1, 2018, and the February 23, 2018 plan enrollment notice stating that your child's enrollment was effective April 1, 2018 are AFFIRMED.

Decision

The December 21, 2017 discontinuance and disenrollment notices are MODIFIED to reflect a January 31, 2018 end date.

Your case is RETURNED to NYSOH to reinstate your youngest child [REDACTED] into his Child Health Plus plan for the month of January 2018.

The February 23, 2018 eligibility determination notice is AFFIRMED.

The February 23, 2018 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: May 21, 2018

How this Decision Affects Your Eligibility

Your child should not have been terminated from her Child Health Plus plan in January 2018 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus for the month of January 2018.

The February 23, 2018 eligibility determination notices were timely.

Your child's eligibility for Child Health Plus was effective April 1, 2017.

Your child's enrollment into a Child Health Plus plan was effective April 1, 2017.

If You Disagree with this Decision (Appeal Rights)

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).

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

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- By fax: 1-855-900-5557

Summary

The December 21, 2017 discontinuance and disenrollment notices are MODIFIED to reflect a January 31, 2018 end date.

Your case is RETURNED to NYSOH to reinstate your youngest child [REDACTED] into his Child Health Plus plan for the month of January 2018.

Your child should not have been terminated from her Child Health Plus plan in January 2018 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus for the month of January 2018.

The February 23, 2018 eligibility determination notices were timely.

The February 23, 2018 eligibility determination notice is AFFIRMED.

The February 23, 2018 plan enrollment notice is AFFIRMED.

Your child's eligibility for Child Health Plus was effective April 1, 2017.

Your child's enrollment into a Child Health Plus plan was effective April 1, 2017.

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 مجانًا.

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. yeb&tumi ama wo obi a okyer& 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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