



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

Notice of Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029456



Dear [REDACTED]

On April 30, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 16, 2018 eligibility determination and disenrollment notices and March 6, 2018 eligibility determination and disenrollment 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 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.

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 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029456



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 eligible to receive up to \$391.00 per month in advance payments of the premium tax credit, effective March 1, 2018?

Did NYSOH properly determine that you were eligible for cost-sharing reductions?

Did NYSOH properly determine that you were no longer eligible for the Essential Plan, effective February 28, 2018?

Did NYSOH properly determine that you were eligible to receive up to \$391.00 per month in advance payments of the premium tax credit, cost-sharing reductions, and disenroll you from your Essential Plan, effective April 1, 2018?

Procedural History

On January 9, 2018, you applied for health insurance and financial assistance through NYSOH.

On January 10, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, for a limited time, effective February 1, 2018. This notice requested that you submit proof of your household income by April 9, 2018.

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Also on January 10, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan, effective February 1, 2018.

On February 16, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$391.00 in advance payments of the premium tax credit (APTC) as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective March 1, 2018. That notice also stated that you were no longer eligible for Essential Plan, effective February 28, 2018, because your annual household income was over the allowable income limit for that program.

Also on February 16, 2018, NYSOH issued a disenrollment notice stating that you were disenrolled from the Essential Plan, effective February 28, 2018.

On February 27, 2018, you updated your application for financial assistance. On that day, NYSOH issued a preliminary determination stating that you are eligible for the Essential Plan with a \$20.00 monthly premium, effective April 1, 2018. You chose a plan that day.

Also on February 27, 2018, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as the Essential Plan did not begin on March 1, 2018.

On February 28, 2018, NYSOH issued an eligibility determination notice, based on your February 27, 2018 application, stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective April 1, 2018.

Also on February 28, 2018, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in an Essential Plan, effective April 1, 2018.

On March 5, 2018, NYSOH updated your application based on the income documentation you had submitted.

On March 6, 2018, NYSOH issued an eligibility determination notice, stating that you are eligible to receive up to \$391.00 in APTC as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective April 1, 2018.

Also on March 6, 2018, NYSOH issued a disenrollment notice stating you were disenrolled from the Essential Plan, effective April 1, 2018.

On March 9, 2018, NYSOH issued a notice stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, for a limited time, effective March 1, 2018. This was because you had been granted Aid to Continue pending the outcome of your appeal.

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Also on March 9, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan, effective March 1, 2018.

On April 30, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing. You clarified that you are seeking to be found eligible for the Essential Plan from March 1, 2018 going forward because you were subsequently disenrolled from the Essential Plan after your initial appeal was filed. Your appeal was amended accordingly and the record was held open up to May 14, 2018, to allow you time to submit supporting documents.

On May 10, 2018, NYSOH received your supporting documents by fax. The documents were incorporated into the record as Appellant's [REDACTED] and the record was closed.

Findings of Fact

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

- 1) You testified that you expect to file your tax return for 2018 with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on your behalf on February 15, 2018 listed annual household income of \$24,490.31 you earn annually from your employment. You testified that this amount was incorrect.
- 4) The application that was submitted on your behalf on March 5, 2018 listed annual household income of \$24,489.01 you earn annually from your employment. You testified that this amount was incorrect.
- 5) You uploaded the following four paystubs for the month of January 2018, totaling \$1,883.77:
 - a. January 5, 2018 - \$437.01;
 - b. January 12, 2018 - \$570.02;
 - c. January 19, 2018 - \$442.44; and
 - d. January 26, 2018 – \$434.30.
- 6) You testified that although \$1,883.77 was a valid representation of your income for the month of January 2018, your income varies and that this total was not representative of your annual income because your pay was

higher for the month of January due to additional pay received for the holidays.

- 7) You testified that your income for the month of February 2018 was a more accurate representation of your monthly income for the year.
- 8) You faxed in the following four paystubs for the month February 2018 totaling \$1,757.83:
 - a. February 2, 2018 - \$414.30;
 - b. February 9, 2018 - \$450.51;
 - c. February 16, 2018 - \$446.51; and
 - d. February 23, 2018 – \$446.51.
- 9) Your application states that you will not be taking any deductions on your 2018 tax return.
- 10) Your application states that you live in Albany County.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2018 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3, IRS Rev. Proc. 2017-36).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your applications, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831).

For annual household income in the range of at least 200% but less than 250% of the 2017 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2017-36).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level qualified health plan (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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 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 applications that was the 2017 FPL, which is \$12,060.00 for a one -person household (82 Fed. Reg. 8831).

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/downloads/ny-blueprint.pdf>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage; therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for up to \$391.00 per month in APTC, effective March 1, 2018.

The application that was submitted on February 15, 2018 listed an annual household income of \$24,490.31 and the eligibility determination relied upon that information. This annual household income was determined based on the paystubs you uploaded to your account for the month of January 2018 in the amount of \$1,883.77. It is noted that the annual household income based on \$1,883.77 is actually calculated as \$24,489.01; however, this \$1.30 discrepancy is an insignificant error that did not affect the eligibility determination.

You are in a one-person household. You expect to file your 2018 income tax return as single and will claim no dependents on that tax return.

You reside in Albany County, where the second lowest cost silver plan available for an individual through NYSOH costs \$522.62 per month.

An annual income of \$24,490.31 is 203.07% of the 2017 FPL for a one-person household. At 203.07% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$131.43 per month.

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The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$522.62 per month) minus your expected contribution (\$131.43 per month), which equals \$391.19 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$391.00 per month in APTC based on the income information you provided for the month of January 2018.

The second issue is whether you were properly determined eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$24,490.31 is 203.07% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined you were ineligible for the Essential Plan, effective February 28, 2018.

The Essential Plan is generally provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$12,060.00 for a one-person household. Since an annual household income of \$24,490.31 is 203.07% of the 2017 FPL, NYSOH correctly found you to be ineligible for the Essential Plan.

Since the February 16, 2018, eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$391.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

Also, the February 16, 2018, disenrollment notice stating that you were disenrolled in the Essential Plan, effective February 28, 2018 is AFFIRMED.

The fourth issue is whether NYSOH properly determined that you were eligible for up to \$391.00 per month in APTC, and disenrolled from the Essential Plan, effective April 1, 2018.

On February 27, 2018, you contacted NYSOH to update your application for financial assistance. In particular, you updated your household income to \$23,012.00. Based on this application, you were determined eligible for the Essential Plan with a \$20.00 monthly premium, effective April 1, 2018. You enrolled in an Essential Plan that day.

On March 5, 2018, NYSOH corrected the discrepancy it made in your February 15, 2018 application described above, from \$24,490.31 to \$24,489.01. As a result of this correction, you were re-determined eligible for up to \$391.00 per

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month in APTC, and no longer eligible for the Essential Plan, effective April 1, 2018.

However, you testified that although \$1,883.77 was a valid representation of your income for the month of January 2018, your income varies and that this total was not representative of your annual income because your pay was higher for the month of January due to additional pay received for the holidays.

Additionally, you testified that your income for the month of February 2018 was a more accurate representation of your income. You faxed in four paystubs for the month February 2018 totaling \$1,757.83 which makes your annual expected income \$22,851.79 ($\$1,757.83 \div 4 = 439.4575 \times 52$).

The Essential Plan is generally provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of the March 5, 2018 application, the relevant FPL was \$12,060.00 for a one-person household. An annual household income of \$22,851.79 is 189.48% of the 2017 FPL.

Based on your testimony and the evidence in the record, NYSOH's March 6, 2018 eligibility determination that you are eligible for APTC and no longer eligible for the Essential Plan was based on an incorrect annual income calculation and therefore RESCINDED.

The March 6, 2018 disenrollment notice stating that you are no longer enrolled in the Essential Plan effective April 1, 2018 is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance on an annual basis as of the March 5, 2018 application for insurance. NYSOH is directed to determine your eligibility based on a household of one person, residing in Albany County with an expected annual income of \$22,851.79. Any redetermination made on the basis of this information is to be effective as if the determination was made on March 5, 2018.

Decision

The February 16, 2018 eligibility determination notice is AFFIRMED.

The February 16, 2018 disenrollment notice is AFFIRMED.

The March 6, 2018 eligibility determination notice is RESCINDED.

The March 6, 2018 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance on an annual basis as of the March 5, 2018 application for insurance. NYSOH is directed to determine your eligibility based on a household of one person, residing in Albany County with an expected annual income of \$22,851.79. Any redetermination made on the basis of this information is to be effective as if the determination was made on February 15, 2018.

Effective Date of this Decision: May 18, 2018

How this Decision Affects Your Eligibility

NYSOH properly found you eligible for up to \$391.00 in APTC, effective March 1, 2018.

NYSOH incorrectly found you eligible for up to \$391.00 in APTC, effective April 1, 2018.

Your case is being sent back to NYSOH to redetermine your eligibility as of the March 5, 2018 application based on the income documentation you submitted following your hearing.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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

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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

The February 16, 2018 eligibility determination notice is AFFIRMED.

The February 16, 2018 disenrollment notice is AFFIRMED.

NYSOH properly found you eligible for up to \$391.00 in APTC, effective March 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).

The March 6, 2018 eligibility determination notice is RESCINDED.

The March 6, 2018 disenrollment notice is RESCINDED.

NYSOH incorrectly found you eligible for up to \$391.00 in APTC, effective April 1, 2018.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance on an annual basis as of your March 5, 2018 application for insurance. NYSOH is directed to determine your eligibility based on a household of one person, residing in Albany County with an expected annual income of \$22,851.79. Any redetermination made on the basis of this information is to be effective as if the determination was made on March 5, 2018.

Legal Authority

We are sending you this notice 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. y&b&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)

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