

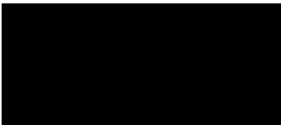


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030539



Dear [REDACTED],

On May 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 14, 2018 disenrollment, March 22, 2018 eligibility determination and March 23, 2018 enrollment confirmation 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 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030539



Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to determine whether your child was properly disenrolled from his Essential Plan coverage for nonpayment of premiums, effective March 1, 2018?

Did NYSOH properly determine that you and your child's enrollment in a qualified health plan (QHP) and the application of advance payments of the premium tax credit (APTC) were effective no earlier than May 1, 2018?

Procedural History

On December 13, 2017, you updated your application for financial assistance with health insurance on behalf of yourself and your child.

On December 14, 2017, NYSOH issued a notice of eligibility determination stating your son was eligible for Child Health Plus (CHP) with no monthly premium, effective January 1, 2018, and no longer eligible for Medicaid, effective December 31, 2017. The notice stated NYSOH had enrolled your child into a CHP plan offered by his current health insurance company. The notice further stated your current coverage would end January 31, 2018, and that you would receive a notice about renewing your coverage around December 16, 2017.

Also on December 14, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Medicaid Managed Care (MMC) plan, beginning

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January 1, 2017, and your child's enrollment in an Independent Health CHP plan with a \$0.00 monthly premium, beginning January 1, 2018.

On December 17, 2017, NYSOH's system redetermined you and your child's eligibility.

On December 18, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective February 1, 2018. The notice further stated your child was eligible for CHP with no monthly premium, effective February 1, 2018.

Also on December 18, 2017, NYSOH issued a disenrollment notice, stating your enrollment in your MMC plan was ending, effective January 31, 2018, because you were no longer eligible to enroll in that plan.

That same day, NYSOH issue a notice of enrollment confirmation, confirming your enrollment in an Independent Health Essential Plan with a \$20.00 monthly premium, beginning February 1, 2018, and your child's enrollment in an Independent Health CHP plan with no monthly premium, beginning February 1, 2018.

On January 21, 2018, NYSOH redetermined you and your child's eligibility.

On January 22, 2018, NYSOH issued a notice of eligibility determination stating you were eligible for the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018, and your child was now eligible for the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018. The notice further stated your child was no longer eligible for CHP as of February 28, 2018. Finally, the notice stated NYSOH enrolled your child into an Essential Plan offered by his current health insurance company (Independent Health).

Also on January 22, 2018, NYSOH issued a disenrollment notice, stating your child was disenrolled from his CHP plan, effective February 28, 2018. This was because he was no longer eligible to enroll in his CHP plan because that coverage is only available to individuals who are 18 years of age or younger.

That same day, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Independent Health Essential Plan with a \$20.00 monthly premium, beginning February 1, 2018, and your child's enrollment in an Independent Health Essential Plan with a \$20.00 monthly premium, beginning March 1, 2018.

On March 14, 2018, NYSOH issued a disenrollment notice, stating your child was disenrolled from his Essential Plan coverage, effective March 1, 2018, because his bill was not paid by the payment deadline.

On March 21, 2018, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating you and your child were eligible to receive up to \$658.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, effective May 1, 2018.

Also on March 21, 2018, you spoke to NYSOH's Account Review Unit and appealed, insofar as your child was disenrolled from his Essential Plan coverage as of March 1, 2018, and his new eligibility did not begin until May 1, 2018

On March 22, 2018, NYSOH issued a notice of eligibility redetermination stating you and your child were eligible to receive up to \$658.00 per month in APTC, and eligible for cost-sharing reductions, if you enrolled in a silver level QHP. This eligibility was effective May 1, 2018.

Also on March 22, 2018, NYSOH issued a disenrollment notice, stating your enrollment in your Essential Plan was ending, effective April 30, 2018, because you were no longer eligible to enroll in that coverage.

On March 23, 2018, NYSOH issued a letter confirming you and your child's enrollment in a Fidelis silver level QHP with a monthly premium responsibility of \$36.64, after your APTC of \$658.00 was applied, both effective May 1, 2018.

On May 17, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's 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 support the following findings of fact:

- 1) You submitted an updated application to NYSOH for financial assistance on December 13, 2017. As a result, your child was found eligible for CHP with no monthly premium, effective January 1, 2018.
- 2) Your NYSOH account reflects your child turned [REDACTED] on [REDACTED].
- 3) On January 22, 2018, NYSOH issued a notice of eligibility determination stating your child was eligible for the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018.
- 4) Also on January 22, 2018, NYSOH issued a disenrollment notice, stating your child's enrollment in his CHP plan was ending, effective February 28, 2018, because enrollment in that coverage is limited to individuals aged 18 years old and younger.

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- 5) Your NYSOH account reflects NYSOH enrolled your child into an Independent Health Essential Plan, and both of you were enrolled in Essential Plan coverage with Independent Health, with a monthly premium of \$20.00 each, as of March 1, 2018.
- 6) You testified it was your understanding your son became eligible for the Essential Plan because of your household income.
- 7) You testified you believe you paid all the premiums required for your coverage and [REDACTED] coverage, based on the invoices you received.
- 8) You testified you found out your child was disenrolled from his coverage when you took him to [REDACTED] and later received a call from [REDACTED] informing you your child's coverage was not active.
- 9) You testified you then received a disenrollment notice stating your child's coverage had ended.
- 10) You testified you called Independent Health and the person you spoke with was unable to tell you whose premium the payments you made had been applied to, and informed you your child's coverage ended because of nonpayment.
- 11) You testified you made a payment on January 9, 2018 of \$20.00 for your February 2018 premium, and a payment on March 7, 2018 of \$20.00, which you understood to be for March 2018.
- 12) You testified you believe part of the reason your child lost his coverage was the confusion caused by the notices NYSOH issued to you in January 2018.
- 13) Your NYSOH account reflects you updated your NYSOH application on March 21, 2018, and you and your child were found eligible to share up to \$658.00 per month in APTC, and eligible for cost-sharing reductions, effective May 1, 2018. You also selected a QHP for enrollment on behalf of yourself and your child on March 22, 2018, with coverage beginning May 1, 2018.
- 14) You testified you are looking for your child to have coverage for the months of March and April 2018, even if it means disenrolling you from your Essential Plan coverage for March and April, and backdating you and your son's QHP enrollment to March 1, 2018.
- 15) On May 17, 2018, you uploaded documentation to your NYSOH account, including invoices from Independent Health (Documents [REDACTED], [REDACTED], and [REDACTED]).

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Redetermination During a Benefit Year

When a redetermination is issued because of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether the Appeals Unit of NYSOH has the authority to review your child's disenrollment from his Essential Plan coverage for nonpayment of premium, effective March 1, 2018.

Your child was found eligible for coverage through the Essential Plan in a notice dated January 22, 2018, with a \$20.00 monthly premium. His eligibility for CHP ended as of February 28, 2018 because he turned nineteen on February 28, 2018. NYSOH enrolled him into an Independent Health Essential Plan, beginning March 1, 2018, because this was the same insurer he was enrolled with when he was CHP eligible. You were notified of his new eligibility and enrollment, and his disenrollment from his CHP coverage, in notices dated January 22, 2018. You acknowledged receiving these notices.

On March 14, 2018, NYSOH issued a notice stating that your child was disenrolled from his Essential Plan for non-payment of premiums, effective March 1, 2018. You testified you do not believe this was correct, and wanted him to be reenrolled in that coverage.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) a failure to provide timely notice of an eligibility determination and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your child was properly terminated from his Essential Plan for non-payment of premiums. Therefore, your appeal of the March 14, 2018 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determine that you and your child's enrollment in a QHP, as well as the application of APTC, was effective no earlier than May 1, 2018.

The record shows that on March 21, 2018, you updated the information in your NYSOH account, and on March 22, 2018, you submitted a request to enroll in a QHP on behalf of yourself and your child. On March 23, 2018, NYSOH issued an enrollment confirmation notice stating that you and your child's enrollment in your QHP would begin May 1, 2018, and that your APTC would be applied to your monthly premium effective May 1, 2018 as well.

When an individual changes information in their application after the 15th of any month, NYSOH will generally make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's March 22, 2018 eligibility determination and March 23, 2018 enrollment confirmation notices are **AFFIRMED** because they properly began you and your child's enrollment in your QHP, as well as the application of your APTC, on May 1, 2018.

However: You testified you believe you paid the required premiums to Independent Health for you and your child's Essential Plan coverage, and that you do not believe your child should have been disenrolled. Though you only testified to two \$20.00 payments, one on January 9, 2018, and one on March 7, 2018, the invoices you were sent from Independent Health are not clear, when viewed in their totality, as to what premiums your payments were applied to (See the documents referenced above in Finding of Fact #15).

For this reason, your case is **RETURNED** to NYSOH's Plan Management to reach out to Independent Health for an explanation as to what premium payments were received, and what those payments were applied to. NYSOH's Plan Management is also directed to determine whether you were properly and timely notified of your monthly premium responsibility for yourself and your child, and whether your payments were properly credited.

If it is determined that there was error on the part of Independent Health, NYSOH is directed to allow you to retroactively reenroll your child in an Essential Plan with a \$20.00 monthly premium for the months of March and April 2018. Please note: The Appeals Unit cannot mandate Independent Health to reinstate your child in coverage.

Decision

Your appeal of the insurer's termination of your child's enrollment in the Essential Plan for non-payment of premiums, effective March 1, 2018, is **DISMISSED** as a non-appealable issue.

The March 22, 2018 eligibility determination notice is **AFFIRMED**.

The March 23, 2018 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management to reach out to Independent Health for an explanation as to what premium payments were

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received, and what those payments were applied to. NYSOH's Plan Management is also directed to determine whether you were properly and timely notified of your monthly premium responsibility for yourself and your child, and whether your payments were properly credited. NYSOH is directed to refer to Documents [REDACTED], [REDACTED], and [REDACTED], uploaded to your account on May 17, 2018, in making this determination.

If it is determined that there was error on the part of Independent Health, NYSOH is directed to allow you to retroactively reenroll your child in an Essential Plan with a \$20.00 monthly premium for the months of March and April 2018. Please note: The Appeals Unit cannot mandate Independent Health to reinstate your child in coverage.

Effective Date of this Decision: May 29, 2018

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

You and your child's enrollment in your QHP, and your eligibility for APTC, properly began as of May 1, 2018.

However, your case is being sent back to NYSOH to contact Independent Health, to investigate how your premium payments were applied, and whether you received timely and adequate notice of your premium payment responsibility for both yourself and your child, as well as whether your premium payments were properly credited.

If it is determined that there was error on the part of Independent Health, your child will be allowed to reenroll in an Essential Plan with a \$20.00 monthly premium for the months of March and April 2018. Please be advised the Appeals Unit cannot mandate Independent Health to reinstate your child in coverage.

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

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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 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

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- By fax: 1-855-900-5557

Summary

Your appeal of the insurer's termination of your child's enrollment in the Essential Plan for non-payment of premiums, effective March 1, 2018, is DISMISSED as a non-appealable issue.

The March 22, 2018 eligibility determination notice is AFFIRMED.

The March 23, 2018 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH's Plan Management to reach out to Independent Health for an explanation as to what premium payments were received, and what those payments were applied to. NYSOH's Plan Management is also directed to determine whether you were properly and timely notified of your premium responsibility for yourself and your child, and whether your payments were properly credited. NYSOH is directed to refer to Documents [REDACTED], [REDACTED], [REDACTED], and [REDACTED], uploaded to your account on May 17, 2018, in making this determination.

If it is determined that there was error on the part of Independent Health, NYSOH is directed to allow you to retroactively reenroll your child in an Essential Plan with a \$20.00 monthly premium for the months of March and April 2018. Please note: NYSOH cannot mandate Independent Health to reinstate your child in coverage.

This decision does not change your child's eligibility.

You and your child's enrollment in your QHP, and your eligibility for APTC, properly began as of May 1, 2018.

However, your case is being sent back to NYSOH to contact Independent Health, to investigate how your premium payments were applied, and whether you received timely and adequate notice of your premium payment responsibility for both yourself and your child, as well as whether your premium payments were properly credited.

If it is determined that there was error on the part of Independent Health, your child will be allowed to reenroll in an Essential Plan with a \$20.00 monthly premium for the months of March and April 2018. Please be advised the Appeals Unit cannot mandate Independent Health to reinstate your child in coverage.

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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. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

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

Tiếng Việt (Vietnamese)

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

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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