

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 14-01886

PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND DEJOSEPH, JJ.

IN THE MATTER OF COUNTY OF CAYUGA,
PETITIONER-PLAINTIFF-RESPONDENT,

V

ORDER

NIRAV R. SHAH, M.D., M.P.H., COMMISSIONER,
NEW YORK STATE DEPARTMENT OF HEALTH AND
NEW YORK STATE DEPARTMENT OF HEALTH,
RESPONDENTS-DEFENDANTS-APPELLANTS.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (VICTOR PALADINO OF
COUNSEL), FOR RESPONDENTS-DEFENDANTS-APPELLANTS.

WHITEMAN OSTERMAN & HANNA LLP, ALBANY (CHRISTOPHER E. BUCKEY OF
COUNSEL), AND NANCY ROSE STORMER, P.C., UTICA, FOR PETITIONER-
PLAINTIFF-RESPONDENT.

Appeal from a judgment (denominated order and judgment) of the Supreme Court, Cayuga County (Thomas G. Leone, A.J.), entered June 13, 2014 in a CPLR article 78 proceeding and a declaratory judgment action. The judgment, among other things, annulled respondents-defendants' determination dated February 10, 2014 that denied petitioner-plaintiff's claims for reimbursement of overburden expenses incurred prior to January 1, 2006.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by denying the petition-complaint in its entirety and granting judgment in favor of respondents-defendants as follows:

It is ADJUDGED and DECLARED that section 61 of part D of section 1 of chapter 56 of the Laws of 2012 has not been shown to be unconstitutional,

and as modified the judgment is affirmed without costs (*see Matter of County of Chautauqua v Shah* [appeal No. 1], 126 AD3d 1317).

Entered: June 12, 2015

Frances E. Cafarell
Clerk of the Court