

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

657

CA 14-01888

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

IN THE MATTER OF COUNTY OF MONROE,
PETITIONER-PLAINTIFF-RESPONDENT-APPELLANT,

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-RESPONDENTS.

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

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

Appeal and cross appeal from a judgment (denominated order) of the Supreme Court, Monroe County (William P. Polito, J.), entered July 3, 2014 in a CPLR article 78 proceeding and a declaratory judgment action. The judgment, among other things, annulled respondents-defendants' February 20, 2014 and March 6, 2014 denial of petitioner-plaintiff's reimbursement claims.

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