

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

**466**

**CA 14-01041**

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

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IN THE MATTER OF COUNTY OF GENESEE,  
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.

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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.

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Appeal from a judgment of the Supreme Court, Genesee County (Robert C. Noonan, A.J.), entered May 22, 2014 in a CPLR article 78 proceeding and a declaratory judgment action. The judgment, among other things, directed respondents-defendants to pay petitioner-plaintiff's claims for reimbursement of overburden expenditures.

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*, 126 AD3d 1317).

Entered: May 1, 2015

Frances E. Cafarell  
Clerk of the Court