



## Executive Order 38 Court Decision **Court Upholds Hard Cap, Strikes Down Soft Cap**

On October 18, the New York State Court of Appeals [upheld](#) an Appellate Division, Third Department, ruling that found Executive Order 38's "hard cap" on executive compensation and administrative expenses using State funds or State-authorized payments to be Constitutional, but also struck down its "soft cap" on executive compensation from other funding sources.

In its decision, the court stated that the hard cap regulations, unlike the soft cap regulations, did not exceed DOH's regulatory authority because they were issued to fulfill DOH's statutory task of expending state healthcare funds in the most efficient and effective manner possible, had a rational basis in their development, and were not arbitrary or capricious.

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