

SUPREME COURT OF PENNSYLVANIA

Peter A. Precht v. Unemployment Compensation Board of Review

No. 85 MAP 2024, Supreme Court of Pennsylvania (April 30, 2026)

SUMMARY

The Pennsylvania Supreme Court considers whether the judicially created "positive steps" test remains applicable when determining whether activities related to a stand-alone business constitute self-employment under the Unemployment Compensation Law. The Court holds that the test is untenable where it permits denial of benefits without proof that the claimant performed services for wages, as required by Section 4(l)(2)(B) of the Law. The Court reverses the Commonwealth Court's order affirming the denial of benefits.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Kevin Brobson; Chief Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Mundy; Justice Brobson; Justice McCaffery
JURISDICTION	Supreme Court of Pennsylvania
DECIDED	April 30, 2026
DOCKET	85 MAP 2024
DISPOSITION	reversed
PROCEDURAL POSTURE	Discretionary appeal from the Commonwealth Court's order affirming the Unemployment Compensation Board of Review's denial of unemployment compensation benefits.
STANDARD OF REVIEW	The Court reviewed the interpretation and application of Section 4(l)(2)(B) of the Unemployment Compensation Law de novo as a question of law, applying the plain-language principles of statutory construction.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Peter A. Precht v. Unemployment Compensation Board of Review

TOPICS

- unemployment benefits
- administrative law
- statutory interpretation
- appellate procedure

PRACTICE AREAS

Unemployment compensation

Administrative law

Statutory interpretation

Appellate procedure

QUESTIONS PRESENTED

1. Whether Section 4(l)(2)(B) of the Unemployment Compensation Law supplies the test for determining self-employment in the stand-alone business context.
2. Whether the judicially created positive steps test remains viable for determining self-employment under the Unemployment Compensation Law.
3. Whether a claimant who has not performed services for wages and is not yet customarily engaged in an independently established business may be disqualified from unemployment compensation based solely on efforts to establish a future business.

HOLDINGS

1. Section 4(l)(2)(B) of the Unemployment Compensation Law provides the test for determining whether an individual's actions related to a stand-alone business enterprise render the individual self-employed under Section 402(h).
2. The positive steps test contravenes the plain language of Section 4(l)(2)(B) when applied to individuals who have not yet performed services for wages or who are not yet customarily engaged in an independently established trade, occupation, profession, or business.
3. Because Precht had not performed services for wages through his stand-alone business, his efforts to establish that business did not establish self-employment or render him ineligible for unemployment compensation.

KEY QUOTATIONS

“After careful consideration, we hold that the positive steps test is untenable where, as here, it permits the disqualification of an unemployment compensation claimant for benefits in contravention of the plain language of Section 4(l)(2)(B) of the Law, 43 P.S. § 753(l)(2)(B).” (J-84-2025 - 2)

“Section 4(l)(2)(B) of the Law plainly requires the performance of services for wages, and neither the control factor nor the independence factor can be proven without first proving the existence of “such services.”” (J-84-2025 - 13)

“As Claimant had not yet performed services for wages on behalf of his stand-alone business enterprise, his aspirational efforts towards that business could not establish his ineligibility for UC benefits.” (J-84-2025 - 16)

FACTUAL BACKGROUND

Precht separated from Walman Optical on August 6, 2020, and the next day created an optical consultation business. He designed and created a website and spent approximately \$2,983 on advertising, but had not performed services for the business or received any earnings. The Board found him ineligible for unemployment

compensation because his business-formation activities constituted positive steps toward establishing an independent business.

PROCEDURAL HISTORY

After separating from his employment with Walman Optical, Precht created an optical consultation business, designed a website, and spent money on advertising, but had not performed services or received earnings. The Altoona Unemployment Compensation Service Center denied benefits, and a referee and the Board affirmed. The Commonwealth Court affirmed in a divided en banc decision, applying the positive steps test. The Supreme Court of Pennsylvania granted discretionary review and reversed.

DISPOSITION

reversed

CASES CITED

- Richards v. Unemployment Compensation Board of Review, 420 A.2d 391 (Pa. 1980)
- Penn Hills School District v. Unemployment Compensation Board of Review, 437 A.2d 1213 (Pa. 1981)
- Bliley Electric Co. v. Unemployment Compensation Board of Review, 45 A.2d 898 (Pa. Super. 1946)
- Leary v. Unemployment Compensation Board of Review, 322 A.2d 749 (Pa. Cmwlth. 1974)
- Lowman v. Unemployment Compensation Board of Review, 235 A.3d 278 (Pa. 2020)
- Maloney v. Valley Medical Facilities, Inc., 984 A.2d 478 (Pa. 2009)
- Precht v. Unemployment Compensation Board of Review, 306 A.3d 994 (Pa. Cmwlth. 2023)
- Collins v. Unemployment Compensation Board of Review, 281 A.3d 364 (Pa. Cmwlth. 2022)
- Buchanan v. Unemployment Compensation Board of Review, 581 A.2d 1005 (Pa. Cmwlth. 1990)
- Harmon v. Unemployment Compensation Board of Review, 207 A.3d 292 (Pa. 2019)
- A Special Touch v. Department of Labor & Industry, 228 A.3d 489 (Pa. 2020)
- Danielle Viktor, Ltd. v. Department of Labor & Industry, 892 A.2d 781 (Pa. 2006)
- Silver v. Unemployment Compensation Board of Review, 34 A.3d 893 (Pa. Cmwlth. 2011)
- Miller v. County of Centre, 173 A.3d 1162 (Pa. 2017)
- Fletcher v. Pennsylvania Property & Casualty Insurance Guaranty Association, 985 A.2d 678 (Pa. 2009)