IN AUGUST, a group of Black former NFL players filed a lawsuit against the league claiming its system for awarding compensation for brain injuries was racially tilted. The suit blamed the NFL’s use of a health care algorithm that assumes white people have intrinsically higher cognitive function than Black people.

The NFL called the suit “misguided.” But Thursday, four Democratic lawmakers asked the Department of Health and Human Services to investigate that cognitive assessment tool and other health care algorithms that use race as a factor. Their letter warns that including race in such calculations could cause doctors to make decisions that worsen health outcomes for people of color.

The letter was written by Senators Cory Booker (D-New Jersey), Elizabeth Warren (D-Massachusetts), and Ron Wyden (D-Oregon), as well as US Representative Barbara Lee (D-California). They cite examples of algorithms including a tool that estimates Black and Latinx women have a smaller chance of a successful vaginal birth after a prior cesarean section. Another is a score of kidney function commonly used to make decisions about transplants and other care that rates a person’s disease as less severe if they are Black.

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[Note that the word “misguided” above is a link to another article: Wall Street Journal, by Louise Radnofsky and Andrew Beaton Aug. 25, 2020 12:10 pm ET]

With the start of the 2020 NFL league year quickly approaching Wednesday, the NFL Players Association membership voted in favor of the proposed collective bargaining agreement. The free-agency negotiating window opens Monday, and the passage of the new CBA removes what would’ve been a significant hurdle during the process. According to NFL Network’s Tom Pelissero, the 2020 salary cap is set at $198.2 million, an increase of $10 million from 2019. That additional cap space is likely to spark a spending spree, especially for the franchises with money to burn.

The link between football and traumatic brain injury continues to strengthen. Now, one of the largest studies on the subject to date finds that 110 out of 111 deceased NFL players had chronic traumatic encephalopathy (CTE), a degenerative brain disorder associated with repetitive head trauma.
While the National Football League (NFL) has had its share of scandals, many Americans rely on the football games it organizes for entertainment and distraction from day-to-day life. Football has such a large audience that individual players can become celebrities off the field, and player contracts and signing bonuses can skyrocket to hundreds of millions of dollars (Zucker, 2020). Players surely enjoy the substantial paychecks, but in exchange they subject themselves to what has been proven to be a high risk of body, and specifically brain, injuries (Sifferlin, 2017). The league offers healthcare, of course, and even pays compensation to players if an algorithm determines that they have suffered a brain injury (Simonite, 2020). When black players noticed they weren’t getting as much compensation as their white teammates, they sued the NFL, claiming the algorithm was “racially tilted,” because it assumed lower cognitive function as a starting point for black players (Simonite, 2020). The NFL responded saying that the lawsuit was “misguided” (Radnofsky & Beaton, 2020, as cited in Simonite, 2020). While the NFL may have dismissed these concerns, now lawmakers are intervening, asking the Department of Health “to investigate that cognitive assessment tool and other health care algorithms that use race as a factor” (Simonite, 2020).

Algorithms in the healthcare sector are not inherently bad. Automating data processes can help healthcare providers to save precious time when treating patients; as a result, healthcare providers such as doctors and nurses would probably prefer to use algorithms in their day-to-day jobs rather than not. Insurance companies probably also see more benefits than drawbacks when implementing algorithms; otherwise, they would rely on pencil and paper calculations to
determine rates and payouts to all of their customers, which would again add a needless waste of
time for customers waiting for compensation. As a result, patients can also benefit from
algorithms, in receiving timelier and potentially life-saving care.

The NFL lawsuit, however, brings the negative side of algorithm reliance into
consideration. Rarely do users of an algorithm get to see, or understand, the inputs and processes
that govern the program’s behavior. The only people who know those key parts of information
are the programmers, who are human, and therefore capable of making mistakes, or worse,
holding racist views. It appears that the NFL is suffering from **confirmation bias**, or a
propensity to “seek and absorb information that is aligned with their original ideas” (Potasznik,
Day 3). In this case, in defending the algorithm they are only seeing what they want to see (e.g. a
fast, neutral computation of compensation) and not what is actually there (a program that treats
black players differently than white players).

It's clear to me that the NFL is prioritizing the credibility of nameless programmers rather
than the actual experience of black players in their organization. While these players enjoy high
salaries, the league itself profits immensely from their suffering. The least the NFL can do is
listen to these players, and now legislators, and subject their algorithms to additional rigorous
testing with a focus on racial equality.
References


