The Excellent Fiduciary: AI is Radically Transforming Benefit Plan Management

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Artificial Intelligence ("AI") innovations in the marketplace and vigorous activity among legislators at the federal and state levels events are rapidly transforming traditional vendor management and employee communication responsibilities for committees that oversee employee benefit plans ("EBP"). Many plan committees are still digesting the cybersecurity guidelines issued by the Employee Benefits Security Administration ("EBSA") in 2021, only to be confronted by an explosion of concerns over the proliferation of AI apps in the hands of plan participants and AI-enabled systems coming into service with recordkeepers, payroll providers, health systems, and other vendors. Few fiduciary committees have fully realized AI's impact. Still, all EBP governing bodies can excel in responding to the continuing alterations in the operating landscape by adjusting their management methods to align with emerging AI controls. This article discusses initiatives that can help fiduciaries and suggests a course of action to benefit from them.

A QUANTUM JUMP IN COMPUTING

AI has become more accessible due to Open AI's ChatGPT and the competition between companies like Google and Microsoft to create more potent and intelligent AI. The realm of machine learning has been made accessible to the general public thanks to these systems, which are also starting to cast doubt on our basic assumptions about what computers are capable of and what it means to produce anything, from executive speeches to works of art.

The new fact is that strategic planners employed by vendors of services on which EBPs rely, including the contractors to whom those vendors outsource parts of their services, utilize AI tools to cut down on time spent on operations, and they will continue to do so. Given that ChatGPT surpassed 100 million users in just two months, it has solidified its position as the program with the fastest growth rate ever.

ChatGPT's track record emphasizes the critical importance of EBP governance when using AI technologies and why executives responsible for the safe operation of those plans must swiftly learn about this new technology to comprehend the business potential and its associated hazards.

Human resources, finance, and administration leaders must act quickly to grasp the scope of AI's potential benefits and risks as the speed of AI innovation accelerates beyond what most people believed

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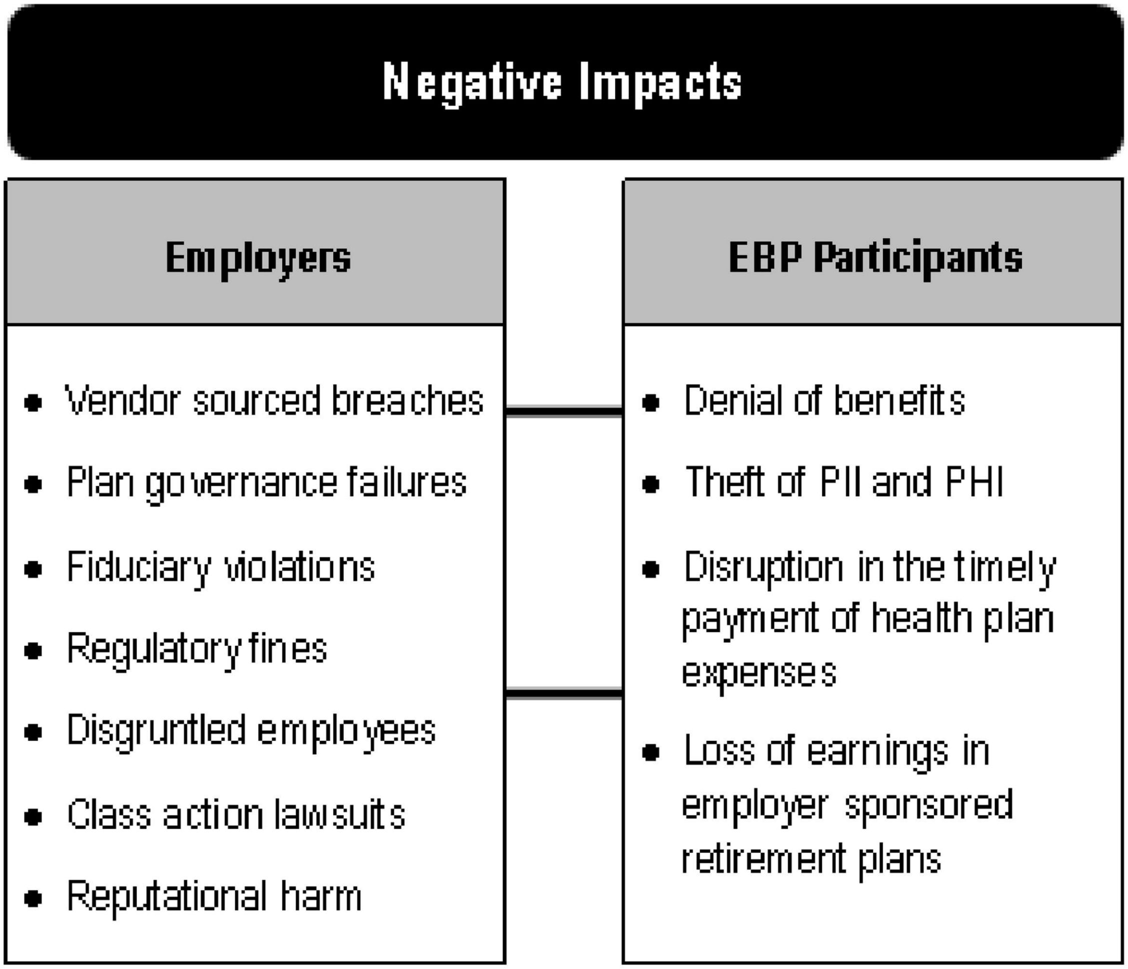
was possible just a few months ago come to the EBP market.

POTENTIAL NEGATIVE IMPACTS OF AI-POWERED SYSTEMS

In addition to providing opportunities to enhance good outcomes, AI risk management reduces potential adverse effects of AI systems, such as denying benefits and faulty financial planning. Effectively addressing, documenting, and managing AI risks and possible adverse effects can result in more reliable AI systems.



Negative Impacts

Employers

- Vendor sourced breaches
- Plan governance failures
- Fiduciary violations
- Regulatory fines
- Disgruntled employees
- Class action lawsuits
- Reputational harm

EBP Participants

- Denial of benefits
- Theft of PII and PHI
- Disruption in the timely payment of health plan expenses
- Loss of earnings in employer sponsored retirement plans

EXAMINING THE RISKS

Technologies based on AI have the potential to fundamentally alter an entire employee population in many spheres, from health care coverage to retirement plan outcomes comes to the management of their financial resources. AI-based technologies can promote inclusive economic growth and assist with scientific discoveries that expand humankind's understanding of the natural world. However, unintended effects associated with AI technology could hurt the safety of information and assets held in EBPs. Similar to hazards associated with other types of technology, we classify AI risks as long-term, short-term, high- or low-probability, systemic or localized, and high- or low-impact.

Many standards and best practices reduce the hazards posed by traditional software or information-based systems, but the risks created by AI systems are, in many respects, unique. AI systems, for instance, may be trained on data that changes over time, occasionally considerably and unexpectedly, which might have a difficult-to-understand impact on EBP data. Payroll is an example of such an application that has significant interconnectivity with defined contribution retirement plans.

Because AI systems and the environments in which they operate, such as benefits calculations and payroll, are usually complex, it can be challenging to identify and address problems when they do occur. Since social dynamics and human behavior impact AI systems, these systems are essentially socio-technical in nature. AI dangers and benefits may result from the interaction between societal and technical considerations that affect an EBP's reliability.

These dangers make AI a complicated technology, especially for EBP sponsors who do not control the AI development and implementation schedules of vendors who serve their plans and their participants' use of personal AI tools. Furthermore, vendors have a generally poor track record of informing their plan sponsor clients about where AI is at work. Without adequate controls, AI systems may magnify, sustain, or worsen unfair or unfavorable consequences for employees and their beneficiaries. On the other hand, AI systems can reduce and manage inequitable results with the proper controls.

Crucial elements in managing AI systems are education for plan participants and an AI risk management framework in the EBP committee room. Enhancing an employer's credibility with regulators and fostering confidence among other stakeholders will be made possible by being aware of and controlling the hazards associated with AI systems.

CHALLENGES TO AI RISK MANAGEMENT

The challenges for EBP trustees and committees listed below are varied and must be accounted for in order to control hazards in an AI environment.

Inscrutability

Given their intricate internal workings and probabilistic outputs, some audiences may find AI systems incomprehensible. AI researchers refer to it as inscrutability. These traits will likely worsen as AI research advances and new methods and procedures unfold. AI's distinct characteristics and socio-technical ramifications must be addressed by EBP committees that hope to maintain the integrity of their plans and confidence among their plans' stakeholders as service providers and internal systems incorporate AI-enabled routines.

Vendor Data Risks

Vendor risks have to do with the history of the data, including a record of the inputs, systems, and processes that impact the data collection and give historical context. The amount of unstructured data from sources, including social media, mobile devices, sensors, and the Internet, has expanded, making it harder to ingest, sort, link, and use data effectively. It is simple to expose confidential information mistakenly. For instance, an AI-enabled recordkeeping system might deactivate a terminated employee's retirement plan record, but their PII may still appear in the piece of the record that contains the beneficiary's information.

Reliability of AI Systems' Responses

AI models can become problematic when they produce biased results, become unstable, or make conclusions for which there is no actionable recourse for those affected by its decisions (such as when someone is improperly denied a loan against their retirement account). Consider, for instance, how AI models could accidentally bias an employee against enrollment in an EBP by erroneously interpreting the plan's design specifications. When service providers roll out new, intelligent features, frequently without much fanfare, they also introduce models that could interact with user data to pose unforeseen hazards, such as generating covert vulnerabilities that hackers could exploit.

Security Issues

The possibility for fraudsters to use seemingly innocuous marketing, health, and financial data that businesses collect to power AI systems is a new problem. These threads could sow together to construct fraudulent identities if security measures are insufficient. While the target companies are unwitting collaborators and may otherwise be very good at protecting corporate data, they risk employee backlash and regulatory consequences.

PARTICIPANT USAGE RISKS

AI models partly "learn" from what users input into the system. Therefore, plan participants should not place private information into an AI model. That includes data from their retirement, health plans, personal finances, and family information.

There are various issues with how AI models use online scraping, including how these programs use the works of authors and artists to present their responses. Experts in AI have observed that AI models sometimes produce strange, even creepy, answers that suggest the model had its own mind. It is imperative to teach employees to ensure they are comfortable with providing the data collected by any AI service they use by carefully reading the privacy warnings.

Privacy-related issues are developing swiftly and may quickly leave participants in EBPs out of touch. Privacy education should be a component of an enterprise's employee communication program, even enrolling new hires in an outside program if necessary.

Communication with employees about AI and its risks is essential and works best if it flows from a culture of privacy. In order to jump-start a privacy focus, obtain senior leadership's support. Even someone outside the EBP chain, such as the legal department, may offer executive backing. Create a business case for establishing a culture of privacy if you are just getting started.

CONCLUSION

Keep up to date with AI-related developments. The U.S. Government Accountability Office has published the first artificial intelligence accountability framework for federal agencies, enabling non-experts to inquire about AI systems. (You may obtain it at this link https://www.gao.gov/products/gao-21-519sp). It is a valuable document for helping executives and managers who operate and govern EBPs get up to speed with AI.

EBP committees can reduce the additional fiduciary and privacy risks inherent in sophisticated machine-learning models by implementing well-targeted changes to their validation frameworks. AI magnifies the importance of third-party risk management, and employers should acquire expert help when fiduciary committees feel overmatched by their service providers. In addition, employers must prepare their EBP participants for managing their retirement and financial affairs in an environment that is suddenly more complex than most comprehend.