Emerging Threat:
Use of the Supports Intensity Scale Assessment Tool for ICF/MR Discharge

Background Information

The Supports Intensity Scale (SIS) is a needs assessment tool developed and sold by the American Association on Intellectual and Developmental Disabilities (AAIDD). SIS is designed to evaluate the practical support requirements of a person with an intellectual disability.

According to the AAIDD -

> "The SIS measures support requirements in 57 life activities and 28 behavioral and medical areas. The assessment is done through an interview with the consumer, and those who know the person well. SIS measures support needs in the areas of home living, community living, lifelong learning, employment, health and safety, social activities, and protection and advocacy. The Scale ranks each activity according to frequency (none, at least once a month), amount (none, less than 30 minutes), and type of support (monitoring, verbal gesturing). Finally, a Supports Intensity Level is determined based on the Total Support Needs Index, which is a standard score generated from scores on all the items tested by the Scale." http://www.siswebsite.org/ (sample interview form available)

To date, SIS has been used most predominantly in the assessment of individuals served in *non*-ICF/MR settings. It is sometimes used in combination with other assessment tools, such as psychological assessments, and risk assessments to assist individuals receiving services and their support teams in developing person-centered plans that focus on strengths and abilities. Where used in ICFs/MR, an "add on" to the SIS assessment has been necessary.

Emerging Threat:
Use of SIS with ICF/MR residents, sometimes as a discharge assessment tool

Reports of the use (or proposed use) of SIS as an assessment tool for the purpose of re-assessment or discharge assessment in several states, including Louisiana, Kentucky, Tennessee, Virginia, and California is of significant concern. In Louisiana, the most dramatic example to date, every public ICF/MR resident was re-assessed with 20% of current residents being found **ineligible** for public ICF/MR placement regardless of how long they had called the ICF/MR home.

According to the Centers for Medicare & Medicaid Services (CMS), SIS does not meet the federal ICF/MR regulation standard for Active Treatment, which includes a requirement that each ICF/MR resident receive an "individual program plan" (IPP) developed by an "interdisciplinary team that represents the professionals, disciplines or service areas that are relevant to – (i) identify the client's needs . . .(ii) Designing programs that meet the client's needs." [42 U.S.C. §440(c)(1)(i) and (ii)]. This regulation requires participation by the client, and where appropriate, his or her legal guardian. [42 U.S.C. §42 U.S.C. §440(c)(2)]. Assessments which, "from individual to individual that have a predictable sameness about them," or are "prepackage programs" are discouraged unless efforts are made to tailor the product to each individual [Guidance to Surveyors, §483(c)(1)(Probes)].

CMS has also said that SIS re-assessments cannot be used solely as a budget tool, however, states have considerable discretion in how they manage their Medicaid program, including eligibility. Furthermore, the SIS assessment tool seems acceptable to CMS if SIS does not take the place of the ICFs/MR annual IPP and if it is used to determine services upon discharge from the ICF/MR. VOR has not received clear or consistent guidance from CMS when SIS is used to define eligibility for ICF/MR-level care (which is within the a state's discretion subject to very broad federal minimums) when implementation is clearly for the purpose of rendering some individuals – even a predetermined quota (as in the case of Louisiana) - ineligible for ICF/MR supports.

Concerns have been raised by parents, guardians and families that if the SIS assessment tool is used to assess ICF/MR residents that have not expressed an interest in transitioning to a HCBS residential setting, unnecessary confusion and conflict may occur when differing opinions arise between the SIS assessors and the CMS approved interdisciplinary teams. Which opinion prevails in this case?

Medicaid Fair Hearing Rights

A Medicaid Fair Hearing is an *administrative* process which allows an individual to appeal an adverse decision made by the state's Medicaid agency. All states participating in the Medicaid are required to have a Fair Hearing process in place. An "adverse decision" is any state law, policy or action that results in a denial of Medicaid services or a reduction of Medicaid services. The process for requesting a Fair Hearing must accompany the denial or change in services. The notice will tell you how to "appeal" the denial or change and by when (e.g., "within 30 days").

VOR is concerned that in some states there may not exist a clear descriptive definition of the Medicaid Fair Hearing Rights and the hearing process readily available on line or in print for families to reference. Families are encouraged to request from their states' department of disability services information about Medicaid Fair Hearing rights.