

Assembly Bill No. 2346

Passed the Assembly August 25, 2016

Chief Clerk of the Assembly

Passed the Senate August 22, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10952.5 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2346, Baker. Public social services: hearings.

Existing law provides various public social services and requires that an applicant for, or recipient of, public social services be accorded an opportunity for a state hearing if, among other reasons, the applicant or recipient is dissatisfied with any action of the county department relating to his or her application for, or receipt of, public social services. Existing law requires, if regulations require a public or private agency to write a position statement concerning the issues in question in a fair hearing, or if the agency chooses to develop such a statement, the agency to make available to the applicant or recipient a copy of the agency's position statement at the county welfare department not less than two working days prior to the date of the hearing. Existing law excludes the State Department of Health Care Services and the State Department of Public Health from that requirement.

This bill would instead require the public or private agency to make the agency's position statement available to the applicant or recipient at the county welfare office or via United States mail, or, upon request, through electronic means, as specified. The bill would exempt, for a specified period, a public or private agency from complying with this requirement if it submits a specified report to the State Department of Social Services by December 31 of each year. The bill would also make technical, nonsubstantive changes to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 10952.5 of the Welfare and Institutions Code is amended to read:

10952.5. (a) If regulations require a public or private agency to write a position statement concerning the issues in question in a fair hearing, or if the public or private agency chooses to develop

that statement, not less than two business days before the date of a hearing provided for pursuant to this chapter, the public or private agency shall make available to the applicant for, or recipient of, public social services requesting a fair hearing, a copy of the public or private agency's position statement on the forthcoming hearing. The public or private agency shall make the copy available to the applicant or recipient at the county welfare department or via United States mail, or, upon request, through electronic means. Except as provided in subdivision (c), if the applicant or recipient requests a position statement to be delivered through electronic means, the position statement shall be delivered through secure electronic means if required by state or federal privacy laws. A public or private agency shall be required to comply with this section only if the public or private agency has received a 10-day prior notice of the date and time of the scheduled hearing.

(b) If the public or private agency does not make the position statement available not less than two business days before the hearing or if the public or private agency decides to modify the position statement, the hearing shall be postponed upon the request of the applicant or recipient, if an applicant or recipient agrees to waive the right to obtain a decision on the hearing within the deadline that would otherwise be applicable under regulations. A postponement for reason of the public or private agency not making the position statement available within not less than two business days shall be deemed a postponement for good cause for purposes of determining eligibility to any applicable benefits pending disposition of the hearing.

(c) (1) A public or private agency shall not be required to make a copy of its position statement available to an applicant or recipient through electronic means if the agency submits a report by December 31 of each year to the State Department of Social Services that includes both of the following:

(A) The barriers the agency has identified that substantially impede or prohibit the electronic provision of hearing documents.

(B) The steps the agency is taking to address these barriers.

(2) This subdivision shall become inoperative on the date that the statewide electronic case management system administered by the State Department of Social Services becomes operational and has the capacity to provide position statements to claimants through secure electronic means.

Approved _____, 2016

Governor