

The Historical Meaning of the amendment of the Law for the Welfare of Physically Disabled Persons in 2000

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In Japan there are some main laws related to Disabilities; Disabled Persons' the Fundamental Law , the Law for the Welfare of Physically Disabled Persons, the Law for the Welfare of Intellectually Disabled Persons, the Law concerning Mental Health and Welfare for Mentally Disabled Persons, the Child Welfare Law , etc.

The Law for the Welfare of Physically Disabled Persons was established in 1949. Although the Law has been amended 43 times reflecting the socio-economic situation, the basic principals have been the same for 50 years. The old basic principle was that national and local governments have responsibility to offer and decide the services for physically disabled persons.

Though they have changed this time. The Law for the Welfare of Physically Disabled Persons was amended on June 7th 2000 and disabled persons will buy services by themselves from 2003. The governments will just support them.

In this study the historical meanings of the amendment are examined.

1. Major national laws related to disabilities in Japan.(Table 1)

The "Disabled Persons' Fundamental law (1970)" establishes the fundamental principles regarding measures for disabled persons and designates the responsibilities of the state, local public entities and the people.

The Child Welfare Law (1947) protects the human rights of all (including disabled) children (under the age of 18) and aims at their healthy upbringing. Services like health examination and guidance on medical educational care, medical treatment, prosthetic appliances, specialized non - residential facilities and facilities for education and care, and public assistance institutions, etc. are provided for disabled children.

The Law for the Welfare of Intellectually Disabled Persons (1960) carries out necessary support in promoting independence and participation in society of intellectually disabled persons such as specialized counseling, various training for

independence, dispatch of home helpers, day care and short stay programs, etc.

The Law concerning Mental Health and Welfare for Mentally Disabled Persons(1950) provides necessary support for mentally disabled persons such as medical care and protection, promotion of social rehabilitation, and independent living and participation in society. It also aims to improve the mental health of the whole nation.

The Law for the Welfare of Physically Disabled Persons (1949) carries out necessary support in promoting independence and participation in society of physically disabled persons such as issuing of certification notebook, various counseling services, grant of prosthetic appliances, provision of technical aids, rehabilitation training, dispatch of sign language interpreter, provision of specialized facilities for nursing care and provision of place for living, etc.

2 The main amendments of the Law for the Welfare of Physically Disabled Persons

(1) Enactment of the Law for the Welfare of Physically Disabled Persons

Before World War II, Japan did not have a system of welfare for disabled persons in general. However, many civilians as well as soldiers were wounded and disabled during the war, which caused demands for measures targeted at disabled persons.

The Law for the Welfare of Physically Disabled Persons was enacted in 1949 for adults with physical disabilities (age 18 and older). The basic purpose of this law was to compensate for the reduction in occupational ability caused by disabilities and to assist people in becoming rehabilitated through their own efforts. The beneficiaries eligible for the measures of this law were initially limited to those with visual/hearing disabilities, speech disability and limb/trunk impairments. These people were provided with; 1) a certification notebook for physically disabled persons; 2)an opportunity of vocational training and actual work in residential facilities; 3) prosthetic appliances to compensate for their disabilities; 4)establish rehabilitation facilities for people with limb and trunk impairment and visual disabilities.

(2)Amendment of the Law for the Welfare of Physically Disabled Persons in 1951

In 1951 the Social Welfare Services Law was enacted to prescribe the common basic rules of social welfare. Accompanied with it the Law for the Welfare of Physically Disabled Persons was amended. The main points to be changed were that; 1) the

welfare office began to have the authority to decide the placement of physically disabled persons; 2) the counseling center for the physically disabled persons were designated as the central organization of rehabilitation; 3) the certification notebook started to be issued to the disabled children under 18; 4) the juridical persons were admitted to run rehabilitation facilities for the physically disabled persons.

(3) Amendment of the Law for the Welfare of Physically Disabled Persons in 1954

As the economic condition in Japan has gradually improved, the law was amended to ;1) provide a system of medical rehabilitation services for disabled persons to eliminate or reduce the patients' co-payments for medical fees for orthopedic surgery intended to reduce disabilities; 2) establish rehabilitation facilities for persons with hearing and speaking disabilities

(4) Amendment of the Law for the Welfare of Physically Disabled Persons in 1967

As the economic condition in Japan has dramatically improved, the law was amended to ;1) begin the home helper service system for the people with severe mental and/or physical disabilities in the area of in-home measures; 2) expand the range of disabilities to heart and respiratory disorders; 3) establish facilities for persons with internal disorders; 4) establish non-residential facilities for physically disabled persons.

(5) Amendment of the Law for the Welfare of Physically Disabled Persons in 1972

As the family structure gradually shifted to the nuclear family, there was a demand for measures to alleviate the burdens of households having persons with severe disabilities. Furthermore the prevalent diseases and thus the needs of those patients has gradually changed. The Law for the Welfare of Physically Disabled Persons was amended to;(1) establish nursing homes for persons with severe physically disabled persons; (2) expand the range of disabilities to kidney disorders and the dialysis was included in medical care for rehabilitation .

(6) Amendment of the Law for the Welfare of Physically Disabled Persons in 1984

The United Nations declared 1981 the "International Year of Disabled Persons." The underlying concept, "Full Participation and Equality," provided the occasion for a

significant shift, in the emphasis of measures for disabled persons, from institutionalization to support for living within the community. Moreover, the International Year of Disabled Persons played a major role in deepening people's understandings of those who have disabilities.

In 1984 the Law for the Welfare of Physically Disabled Persons was amended to ; 1) expand the measures from aiming at restoring occupational ability to supporting for daily life; 2) expand the range of physical disabilities to bladder or rectum dysfunction.

(7) Amendment of the Law for the Welfare of Physically Disabled Persons in 1986

While residential facilities for people with severe disabilities continued to be promoted, many people hoped to continue living in their communities. To meet the needs of people with severe disabilities living at home, various types of support measures were called for.

Specifically, in order to support disabled persons to live in the community, the development of welfare centers for physically disabled persons which were responsible for consultations and activities in the community, daytime sheltered workshops which supplied a place of work, and facilities to support the return of people with mental disorders from hospitals to society were promoted.

In 1986 the Law for the Welfare of Physically Disabled Persons was amended to ; 1) establish short-stay at the rehabilitation facilities; 2) improve the provisions regarding day-care services; 3) expand the range of disabilities to the disorders of the small intestine; 4) expand the program to promote disabled persons' participation in society such as training for Ost-mate users, advice on technical aids and equipment, etc.

(8) Amendment of the Law for the Welfare of Physically Disabled Persons in 1990

As the emphasis further shifted from welfare measures centering on institutionalization to enhancing in-home welfare measures that support independent living in the community, comprehensive and systematic provision of measures in local communities became a major issue. Moreover, both the national government and prefectures were to provide trans-regional and specialized support to the municipalities.

Furthermore, as disabled persons aspire to become actively involved in the society, a wide range of measures are being called for, including vigorous efforts toward the

development of a barrier-free society. In order to support disabled persons in the community and to realize a society in which these people can freely participate, the concept of a barrier-free society is to remove all social barriers, including physical barriers in the living environment (roads, stations, buildings, etc.) as well as, of course, any remaining prejudice that may exist against disabled persons. Also, other measures such as ensuring opportunity of receiving information are called for the welfare of disabled persons.

As a result, the authority to implement in-home measures and other related welfare measures was shifted to the municipality level by the amendment of 8 related welfare laws in 1990, from the perspective that the municipalities, the closest level of government to the residents, would serve the main promoters of these measures. The Law for the Welfare of Physically Disabled Persons was amended at the same time to make the municipal governments have the main responsibility to provide welfare services for physically disabled persons.

3. Contents of the amendment of the Law for the Welfare of Physically Disabled Persons in 2000

After World War II the social welfare policies started with an emphasis on the emergency measures. The Japanese government has made laws for each category of people who needed support, decided the services and delivered them. Today policies need to be changed to consider the improvements in economic situations, the smaller size of families and the ongoing trend towards an aging population with fewer children, etc. And the Social Welfare Law was amended June 7 2000 to establish the user-oriented social welfare system in which users can choose necessary services based on the equal relationship between consumers and providers, and realize the normalization and self decision for disabled people etc.

The Social Welfare Law defines the basic frame of welfare system in Japan and the related 8 laws were amended at the same time; Child Welfare Law, Law for the Welfare of Physically Disabled Persons, Law for the Welfare of Intellectually Disabled Persons, etc.

In 3 years the personal social services in Japan will be categorized into four systems.

(1) Placement system(Fig.1)

This is the on-going personal social service system. The client just consult a local

government to use services. If the government accept the application, it decides the provider and makes a contract with it. All the rehabilitation facilities for the physically disabled persons adopt this system today and will transfer to Utilization System No.2 April 1 2003. Protective facilities, homes for infants, facilities for children with intellectual disability, facilities for visual disability, facilities for autistic children, facilities for children with auditory and speech disabilities, etc. remain to adopt this.

(2) Utilization System No.1(Local Government Contract)

A user chooses a provider and applies to their local government. Both clients and providers make a contract with local government.(Fig.2). The day-care center has adopted this system since April 1 1998. Support facilities for fatherless families and maternity home will adopt this system after April 1st 2001.

(3) Utilization System No.2 (Support Payment)

The user pays money to the provider depending on his/her income. A local government makes a partial-payment for the user. (Fig.3) Almost measures for the physically and intellectually disabled persons, such as rehabilitation facilities, sheltered workshops and day services, home helpers, etc. will adopt this system after April 1 2003.

(4) Utilization System No. 3 (Government Subsidization)

A local government subsidizes the provider. The user makes a contract with the provider. (Fig.4) This system has been already adopted by facilities for disabled people living in the community, such as welfare centers, Braille libraries and prosthetic appliance manufacturing facilities, etc.

As the amendment of Law for the Welfare of Physically Disabled Persons was accompanied with the amendment of Social Welfare Law, it prescribes that the amount of support payment is decided by the degree of disability for utilizing the facilities. The concrete ways to decide the degree of disability has not been decided yet. It will be prescribed in a enforcement regulation.

Discussion

The amendment of the Law for the Welfare of Physically Disabled Persons in 2000

has a significant meaning that it introduced the relationship of supply and demand into welfare system. As the provider is appointed by prefectural government, this relationship is not a real market system. But one of the basic principles that national and local governments have responsibility to offer and decide services for disabled persons has dramatically changed.

Physically disabled persons will be able to buy services by themselves with the governmental support payments and the range of choice will be expected to be broadened from 2003. But it will be impossible unless the amount of payment to providers is attractive for them.

According the Survey of Physically Disabled Persons in 1996, 49.4% of physically disabled persons do not pay income tax. Many of them need the support payment by governments. There should be sufficient investigation about the income of physically disabled persons to realize the purpose of the amendment, broadening the range of choice.

Table 1 Major national laws related to persons with disabilities in Japan.

- Child Welfare Law (1947)
- School Education Law (1947)
- Workmen's Accident Compensation Insurance Law (1947)
- Law for the Welfare of Physically Disabled Persons (1949)
- Daily Life Security Law (1950)
- the Mental Hygiene Law(1950)
 - >the Mental Health Law(1987)
 - >Law on Mental Health and Welfare for People With Mental Disorders(1995)
- Public Housing Law (1951)
- Social Welfare Services Law (1951)
 - >Social Welfare Law(2000)
- Law for Encouragement of School Attendance at Special Schools for Blind Persons, Deaf Persons, Physically Disabled Persons and Mentally Retarded Persons (1954)
- Employees' Pension Law (1954)
- National Pension Law (1959)
- Law for the Welfare of Mentally Retarded Persons (1960)
 - > Law for the Welfare of Intellectually Disabled Persons (1999)
- Law for Employment Promotion of the Physically Disabled.(1960)
 - >Law for Employment Promotion, etc. of the Disabled Persons.(1987)
- Special Child Rearing Allowance Law (1964)
- Maternal and Child Health Law (1965)
- Employment Countermeasures Law (1966)
- Human Resources Development Promotion Law (1969)
- Fundamental Law for Countermeasures Concerning Mentally and Physically Disabled Persons (1970)
 - > Disabled Persons' Fundamental Law (1993)
- Employment Insurance Law (1974)
- Telecommunication Service Law (1984)
- Consumption Tax Law (1988)
- Law for Promoting Businesses that Facilitate the Use of Communications and Broadcast Services by the Physically Disabled Persons (1993)
- Law for Buildings Accessible to and Usable by the Elderly and Physically Disabled Persons (1994)
- Long-term Care insurance Law(1997)
- The Law for Promoting Easily Accessible Public Transportation Infrastructure for the Aged and the Disabled (2000)

Fig 1 Placement System

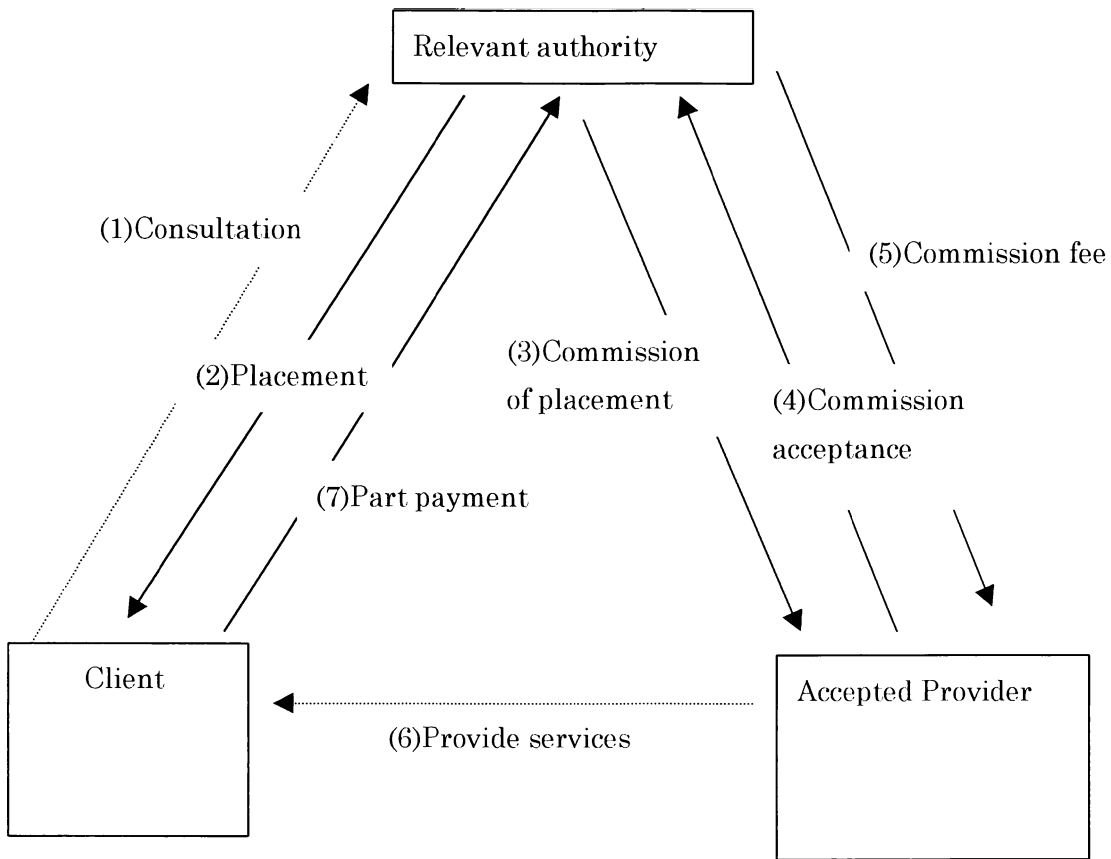


Fig 2 Utilization System No.1 (Local government contract)

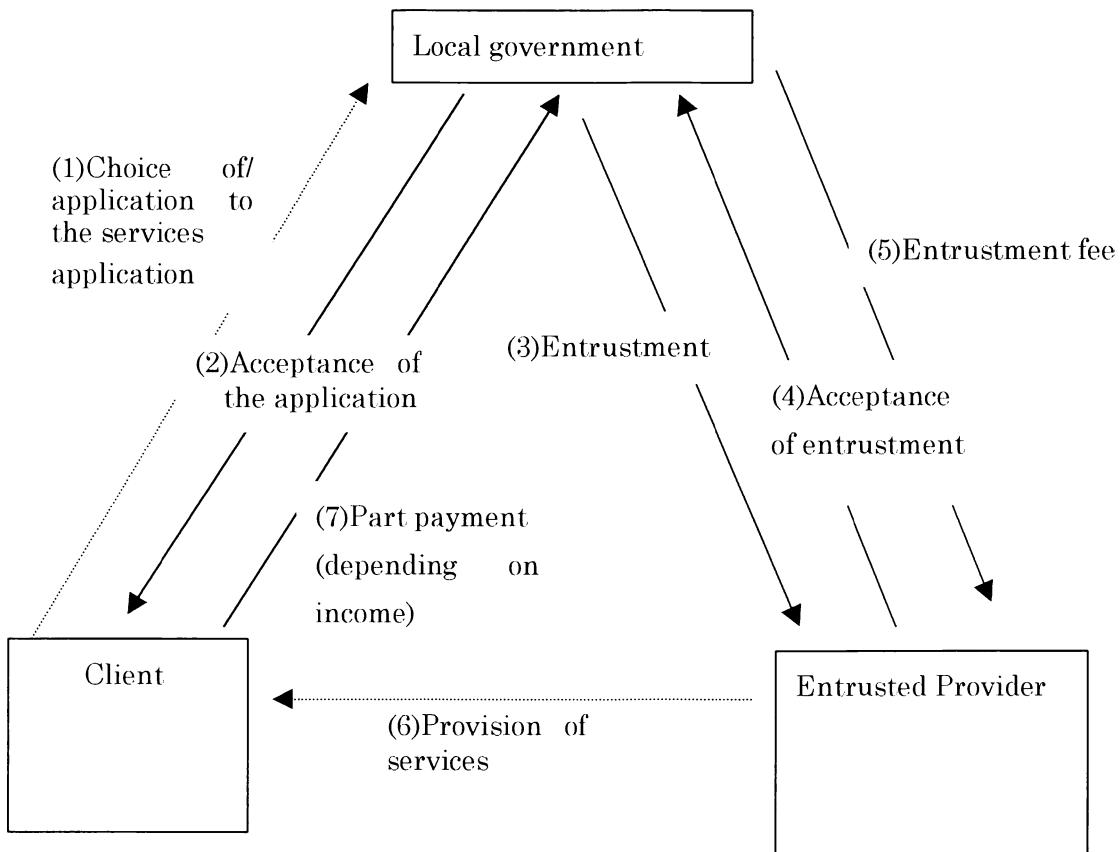


Fig 3 Utilization System No.2 (Support Payment)

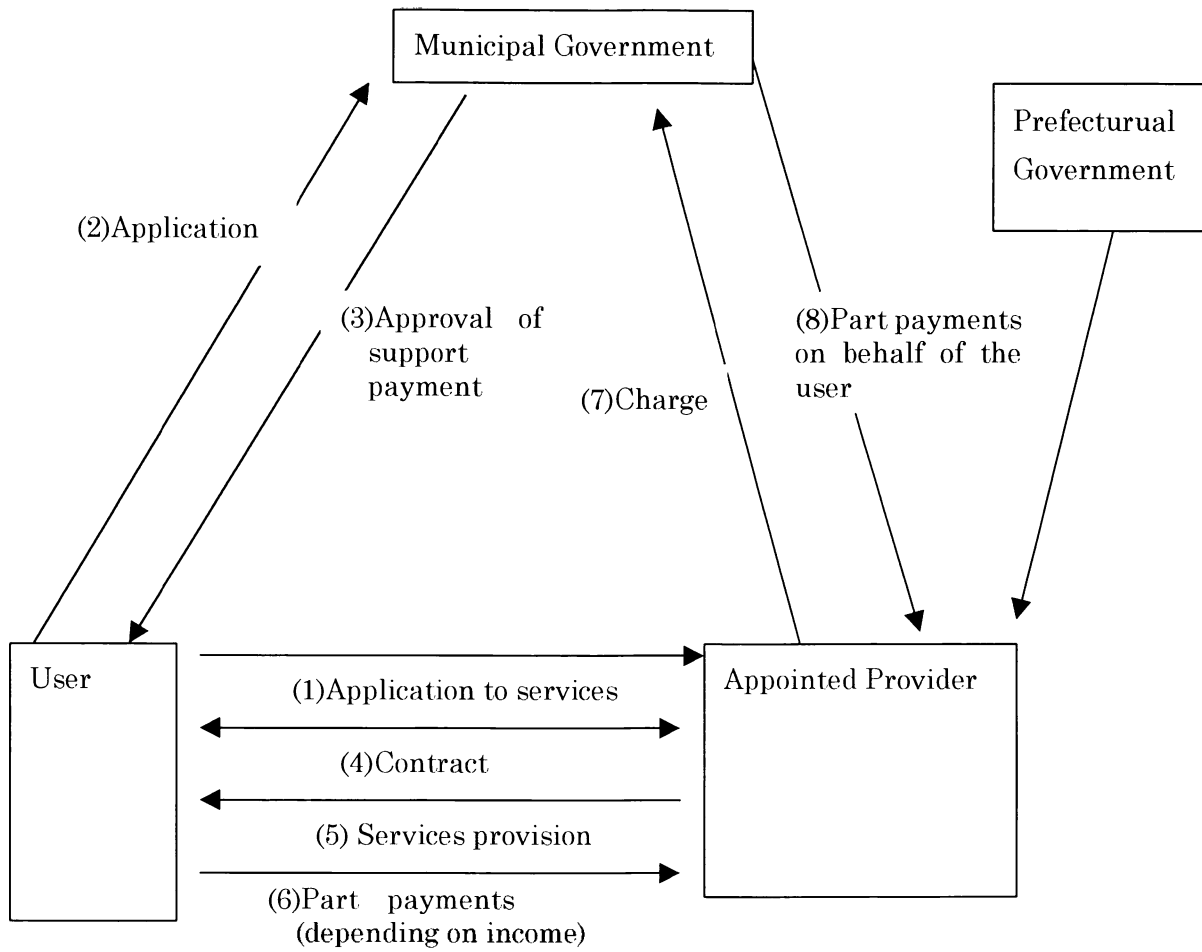
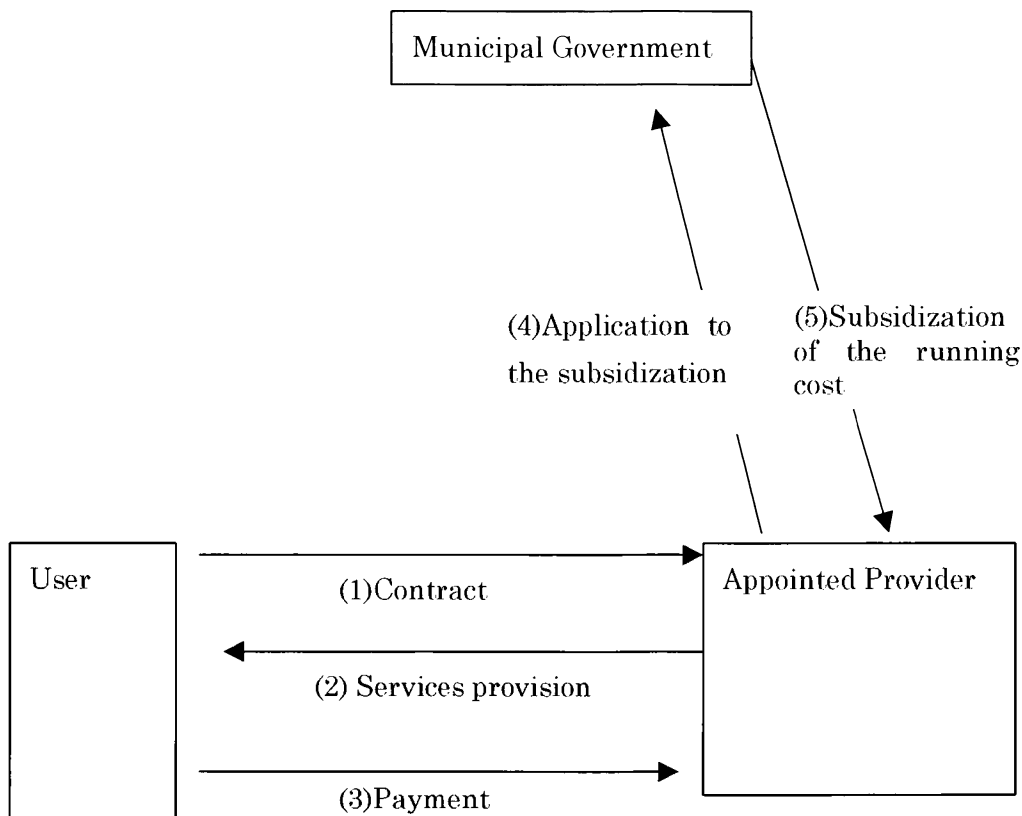
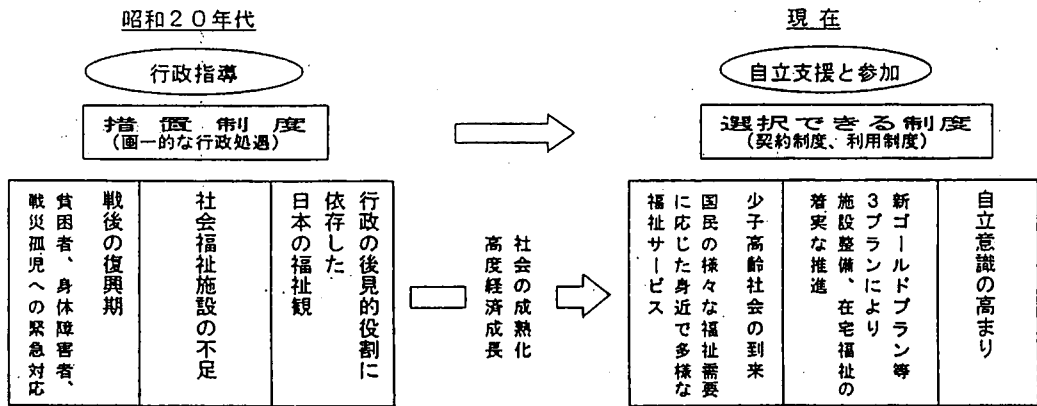


Fig 4 Utilization System No.3 (Government Subsidization)



社会福祉の増進のための社会福祉事業法等の一部を改正する等の法律
(社会福祉基礎構造改革の推進)

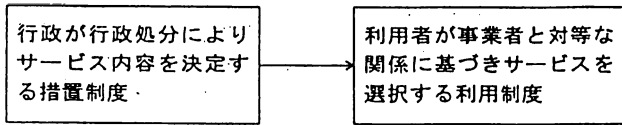
1. 社会環境の変化に伴う社会福祉への要請の変化



2. 基本理念と具体的内容

利用者の立場に立った社会福祉制度の実現

- 福祉サービスの利用制度化
【身体障害者福祉法、知的障害者福祉法等の改正】



- ※1 公費助成については、現行の水準を維持
- ※2 利用者の自己負担は現行の水準を踏まえて設定。

- 利用者の利益を保護する仕組みの導入【社会福祉事業法の改正】

- ①地域福祉権利擁護事業
痴呆性高齢者など自己決定能力の低下した者の福祉サービス利用を支援(改正民法で導入された成年後見制度を補完)
- ②苦情解決制度
・社会福祉事業経営者の施設内の苦情解決の責務を位置づけ
・都道府県社会福祉協議会に、苦情解決のための委員会を設置し、施設内での苦情解決が困難な場合に対応。
- ③利用契約成立時の書面交付を社会福祉事業経営者に義務付け

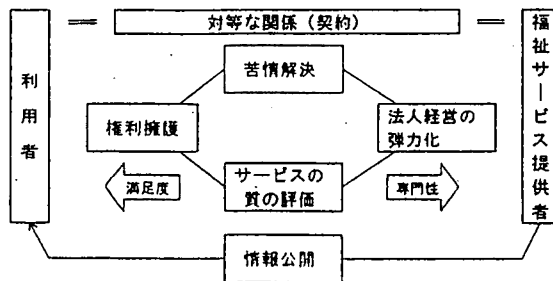
- 福祉サービスの質の向上【社会福祉事業法の改正】

- ・社会福祉事業者によるサービスの質の自己評価などによる質の向上の責務を位置づけ
- ・サービスの質を客観的に評価する第三者機関の育成

時代の要請に応える福祉サービスの充実

- 社会福祉事業の範囲の拡充【社会福祉事業法の改正】
 - ・福祉サービス利用援助事業(地域福祉権利擁護事業)
 - ・手話通訳事業
 - ・盲導犬訓練施設を経営する事業、等
- 社会福祉法人の設立要件の緩和
 - ・障害者の通所授産施設の規模要件の引き下げ(利用人員20人以上→10人以上)【社会福祉事業法の改正】
 - ・「1億円以上」の資産保有を条件とする在宅サービスのうち、ホームヘルプ事業、小規模障害者通所授産施設について引き下げ。「1千万円」を軸に検討。【運用事項】
- 社会福祉法人の運営の弾力化【運用事項】(利用制度化した事業について)
 - ・施設ごとの会計区分を弾力化し、法人単位の経営を確立。
 - ・利用料収入を施設整備費の償還への充当を認めること。
- 地域福祉の推進【社会福祉事業法の改正】
 - ・市町村による市町村地域福祉計画の策定等
 - ・社会福祉協議会、共同募金等の活性化

「社会福祉事業法」から「社会福祉法」に名称変更。

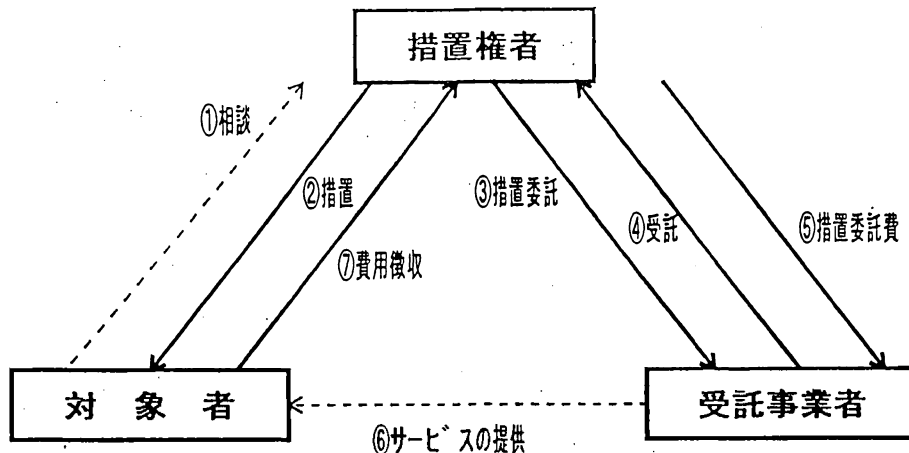


3. 施行期日

介護保険制度、成年後見制度の円滑施行を補完することから、原則、公布日(平成12年6月7日)施行。ただし、福祉サービスの利用制度化等、都道府県等が準備を要するものについては、所要の準備期間を確保。

1. 措置制度

【仕組み】



【対象事業】

- ◎ 児童福祉法関係
 - 障害児の関係施設
 - ・ 知的障害児施設、知的障害児通園施設、盲ろうあ児施設、肢体不自由児施設、重症心身障害児施設
 - 障害児以外の関係施設
 - ・ 乳児院、児童養護施設、情緒障害児短期治療施設、児童自立支援施設
- ◎ 母子及び寡婦福祉法関係
 - ・ 母子家庭居宅介護等事業、寡婦居宅介護等事業
- ◎ 老人福祉法関係
 - ・ 養護老人ホーム
- ◎ 生活保護法関係
 - ・ 保護施設

※ 利用制度化される事業

[平成12年4月から、介護保険方式に移行する施設・事業]

- 特別養護老人ホーム
- 老人居宅生活支援事業

[平成13年4月から、行政との契約方式に移行する施設]

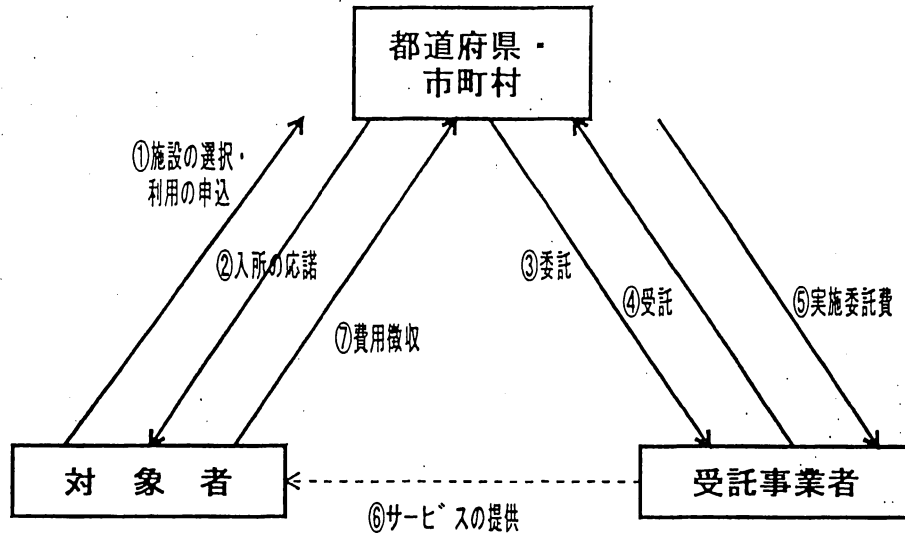
- 母子生活支援施設、助産施設

[平成15年4月から、支援費支給方式に移行する施設・事業]

- 身体障害者更生施設、身体障害者療護施設、身体障害者授産施設
- 身体障害者居宅生活支援事業
- 知的障害者更生施設、知的障害者授産施設、知的障害者通勤寮
- 知的障害者居宅生活支援事業
- 児童居宅生活支援事業

2. 利用制度－1 <行政との契約方式>

【仕組み】



【対象事業】

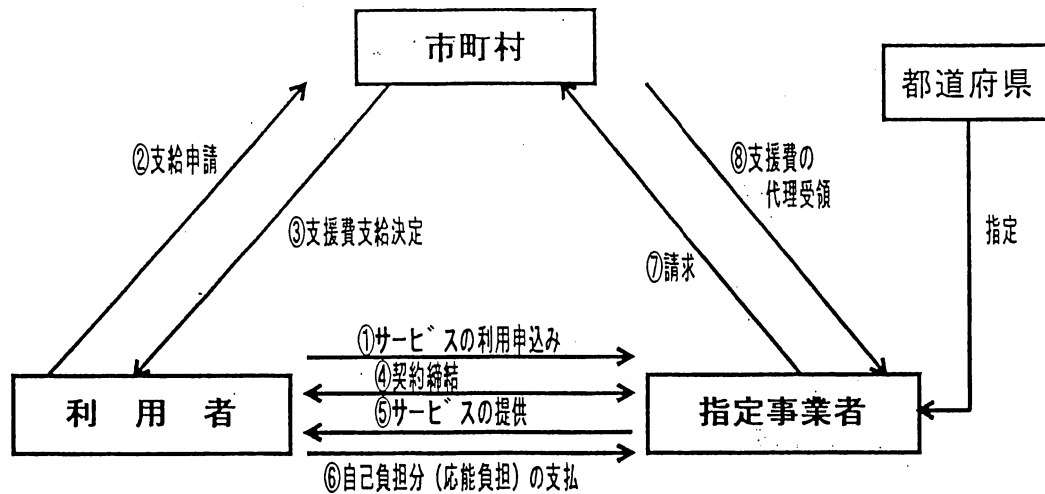
◎ 児童福祉法関係

○ 児童福祉施設のうち以下の施設

- ・ 保育所 [平成10年4月～]
- ・ 母子生活支援施設、助産施設 [平成13年4月～]

2. 利用制度－2 <支援費支給方式>

【仕組み】



【対象事業】〔平成15年4月～〕

◎ 身体障害者福祉法関係

○ 施設

- ・ 身体障害者更生施設、身体障害者療護施設、身体障害者授産施設

○ 在宅

- ・ 身体障害者居宅生活支援事業
身体障害者居宅介護等事業、身体障害者デイサービス事業、身体障害者短期入所事業

◎ 知的障害者福祉法関係

○ 施設

- ・ 知的障害者更生施設、知的障害者授産施設、知的障害者通勤寮、知的障害者デイサービスセンター

○ 在宅

- ・ 知的障害者居宅生活支援事業
知的障害者居宅介護等事業、知的障害者デイサービス事業、知的障害者短期入所事業、知的障害者地域生活援助事業（グループホーム）

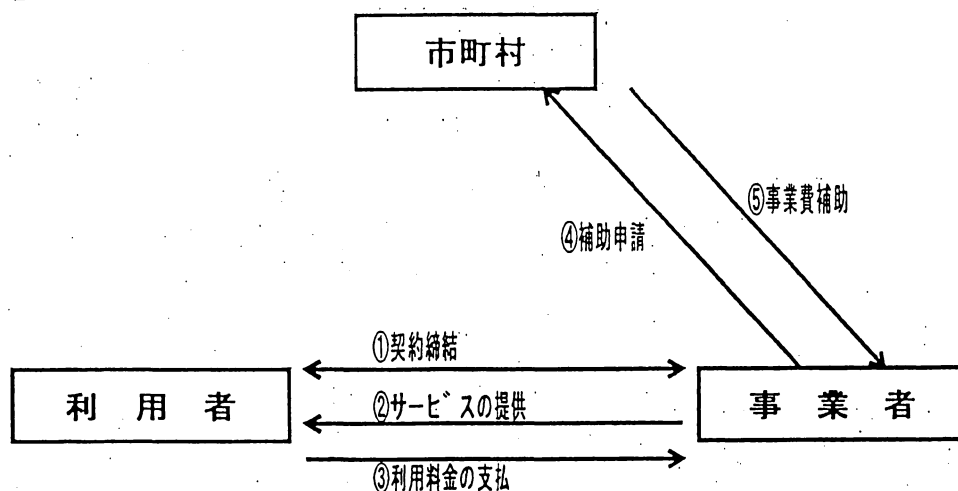
※ 知的障害者デイサービスセンター及び知的障害者デイサービス事業は、平成12年4月から法定化され、平成15年3月までは措置制度、それ以降は支援費支給方式に移行

◎ 児童福祉法（障害児の部分）関係

- ・ 児童居宅介護等事業、児童デイサービス事業、児童短期入所事業

2. 利用制度－3 <事業費補助方式>

【仕組み】

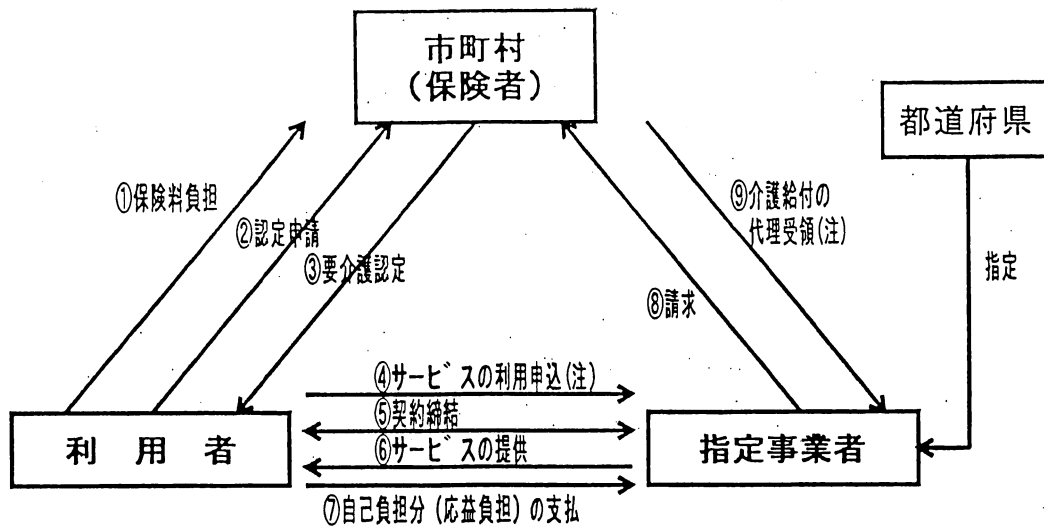


【対象事業】

- ◎ 身体障害者福祉法関係
 - ・ 身体障害者福祉ホーム、身体障害者福祉センター、視聴覚障害者情報提供施設
- ◎ 知的障害者福祉法関係
 - ・ 知的障害者福祉ホーム
- ◎ 精神保健福祉法関係（この場合、上図において「市町村」とあるのは「都道府県」となる）
 - 施設
 - ・ 精神障害者社会復帰施設
 - 在宅
 - ・ 精神障害者居宅生活支援事業
 - ※ 精神障害者地域生活援助事業を除き、平成14年4月から法定化
- ◎ 児童福祉法関係
 - 施設
 - ・ 児童厚生施設
 - 在宅
 - ・ 放課後児童健全育成事業
- ◎ 母子及び寡婦福祉法関係
 - ・ 母子福祉施設（母子福祉センター、母子休養ホーム）
- ◎ 老人福祉法関係
 - 施設
 - ・ 軽費老人ホーム
 - 在宅
 - ・ 老人福祉センター

3. 利用制度（介護保険）

【仕組み】



【対象となる社会福祉事業】〔平成12年4月～〕

◎ 老人福祉法関係

○ 施設

- ・ 特別養護老人ホーム

○ 在宅

- ・ 老人居宅生活支援事業

老人居宅介護等事業、老人デイサービス事業、老人短期入所事業、痴呆対応型老人共同生活援助事業（グループホーム）

※ 痴呆対応型老人共同生活援助事業は、平成12年4月から法定化。

（注）在宅サービスの利用に当たっては、指定居宅サービス事業者（ケアプラン作成事業者）を選び、助言を受けて、他の介護保険給付の対象となるサービスを組み合わせた介護サービス計画（ケアプラン）を作成してからサービス提供を受けるのが通常である。

このような介護サービス計画に基づきサービスを受けた場合及び自分で介護サービス計画を作成し市町村に届出られた介護サービスを受けた場合に、代理受領による現物給付となる。このような手続きを経ない場合は、償還払いの扱いとなる。