

Preserving the Family Legacy: Long-Term Care Planning for Farmers and Ranchers

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Overview

For many farming and ranching families, the land is more than just an asset - it is a living history, a source of identity, and a hard-won legacy intended for the next generation. However, in 2026, that legacy faces a predatory threat that has nothing to do with market volatility or weather patterns: the skyrocketing cost of long-term healthcare. Without a proactive estate plan, a single extended nursing home stay can effectively dismantle a multi-generational operation in a matter of months.

The Economic Reality of Long-Term Care

The numbers are sobering. As of early 2026, the median cost for a private room in a nursing home has climbed to approximately \$11,294 per month, or over \$135,000 annually.¹ In states across the Midwest, while costs may be slightly lower than the national average, they still represent a massive drain on liquidity. For a farm operation, where "wealth" is often tied up in non-liquid assets like machinery, livestock, and acreage, paying these bills out-of-pocket usually necessitates the sale of land or the taking on of significant debt—both of which can cripple a successor's ability to remain viable.

Because Medicare generally only covers short-term rehabilitative care (and even then, only 100% for the first 20 days), most families eventually look toward Medicaid. But Medicaid is a "means-tested" program designed for the indigent, meaning an applicant must have very few countable assets to qualify—typically around \$2,000 for an individual.

The Five-Year Look-Back Rule

The most common mistake farmers make is waiting until a health crisis occurs to transfer the farm to their children. Under the Deficit Reduction Act (DRA),² Medicaid agencies employ a 60-month look-back period.

When you apply for Medicaid, the state scrutinizes every financial transaction from the previous five years. If you transferred assets (such as a 160-acre tract or a fleet of combines) for less than fair market value during that window, Medicaid will impose a penalty period. This is a duration of time during which you are technically eligible for Medicaid but the state refuses to pay, leaving the family to bridge the gap at private-pay rates.

¹ Penn LDI. (Dec. 4, 2025). *Reforming Long-Term Care Policy*. Leonard Davis Institute of Health Economics, University of Pennsylvania. <https://ldi.upenn.edu/our-work/research-updates/reforming-long-term-care-policy/>

² Pub. L. No. 109-171, 120 Stat. 4 (2006).



Observation: The present interest annual exclusion for federal gift tax purposes (which is \$19,000 per recipient in 2026) is distinct from the Medicaid rules. While a person may gift \$19,000 without filing a gift tax return (Form 709), a gift of non-exempt assets of any amount will trigger a Medicaid penalty if made within the look-back period.³

The Medicaid Asset Protection Trust (MAPT)

For those who want to remain in control of their operation while ensuring it remains "invisible" to Medicaid, the Medicaid Asset Protection Trust (MAPT) is often the gold standard.

Structure of the trust. A MAPT is an irrevocable trust. Once assets are transferred to the trust, the grantor (the farmer) no longer "owns" them for Medicaid purposes. However, the trust can be structured with specific protections:

1. **Life use:** The farmer can retain the right to live in the farmhouse for the rest of their life.
2. **Income rights:** The trust can be drafted as an "income-only" trust, allowing the farmer to continue receiving rent from the land or dividends from investments held by the trust.
3. **Tax advantages:** If drafted correctly as a "grantor trust," the heirs still receive a basis in the trust's assets equal to their fair market value as of the farmer's death, potentially saving hundreds of thousands in capital gains taxes when (if) the land is eventually sold.⁴

Observation: Because most farm and ranch estates are well below the current federal estate tax exemption (\$15 million for 2026), including these assets in the farmer's "taxable estate" usually results in zero estate tax while providing a fair market value basis for the heirs.

Medicaid rules vs. IRS rules. A significant question is how a trust can be "empty" for Medicaid but "full" for the IRS. This is possible because Medicaid and the IRS use two entirely different sets of rules to define "ownership." Medicaid eligibility (specifically for long-term care) is governed by Title 42 of the U.S. Code and state-specific regulations. For an asset in an irrevocable trust to be "non-countable," the rules generally state that there must

³ The federal list of exempt assets is found at 42 U.S.C. § 1382b(a). While federal law sets the floor, state-specific rules, particularly regarding income-producing property and home equity limits, are found in state administrative regulations. See, e.g., Kan. Admin. Reg. §129-6-107 & 108.

⁴ For Medicaid eligibility, the trust must be irrevocable, and the grantor must not have access to the principal. Once the five-year look-back period passes, the assets are "invisible" to Medicaid. However, for tax purposes, the trust is drafted as a "Grantor Trust." By retaining specific "strings" (powers) in accordance with I.R.C. §2036 the IRS continues to view the grantor as the owner of the assets for tax purposes. This is what allows the assets to be included in your gross estate at death - the absolute requirement for a basis step-up under I.R.C. §1014. Inclusion in the grantor's estate can also be accomplished via the grantor having a limited power of appointment that gives the grantor the limited power to "alter, amend, or revoke" the enjoyment of the trust property.

be no circumstances under which the principal can be paid to the grantor or for the grantor's benefit. However, a properly drafted MAPT bars the trustee from distributing trust *principal* to the grantor. Even if the grantor retains the right to live in the home or receive income from the farm, the "corpus" (the land and the structure) is locked away. Because the grantor cannot legally force the trustee to use trust assets to pay for the grantor's long-term care in a nursing home, Medicaid considers that asset "unavailable" once the five-year look-back period has passed.

The IRS doesn't care about the Medicaid "no-access" rule. I.R.C. §§2036-2038, governs the tax treatment of the trust assets. These provisions focus on whether the grantor retained "strings" over the assets or "incidents of ownership." For example, if the grantor retained the "possession, enjoyment, or the right to the income" from the property transferred to the trust, the entire value of that property is included in the grantor's gross estate at death.

Observation: A MAPT creates a dual reality. For Medicaid eligibility purposes, the grantor has no right to the *principal*, protecting the assets and allowing the grantor to qualify for benefits. In addition, the grantor retains "enjoyment" of the assets, causing inclusion the grantor's gross estate at death and allowing the grantor's heirs to inherit the trust property at its date-of-death fair market value.

Another benefit of the MAPT strategy is that the five-year clock begins the moment the assets are deeded into the trust. Therefore, the best time to plan is while you are healthy and have no immediate need for care.

Strategies for Farm Transition

Effective planning isn't just about hiding assets; it's about business continuity.

- **The "community spouse" protections:** If one spouse enters care while the other remains on the farm, the "community spouse" is entitled to a Community Spouse Resource Allowance (CSRA). In 2026, this allows the healthy spouse to keep up to \$162,660 in countable assets, plus the home and certain income protections.⁵
- **The caregiver child exception:** In limited cases, if a child has lived in the parent's home for at least two years and provided care that kept the parent out of a nursing home, the home may be transferred to that child without violating the look-back rule.

Waiting Can Be Costly

The "wait and see" approach is the most expensive strategy in estate planning. If a farmer enters a nursing home tomorrow without a plan, the options are limited to "spending down" until the family is nearly broke. By contrast, starting the five-year clock today through a MAPT or a structured gifting program ensures that even if care is needed in the future, the core of the business - the land - is shielded from the state's reach.

⁵ 42 U.S.C. § 1396r-5(c)(2).

Preserving the farm for the next generation requires recognizing that a health crisis is a business risk just as real as a drought or a market crash. Securing the family's farming legacy means acting while the pen is still in your hand and the clock is on your side.

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