A high priority for many farm families and other business owners is the preservation of the family business for the succeeding generation. An issue of increasing interest and importance is the risk management associated with long-term disability and/or long-term elder care. The Deficit Reduction Act of 2005, signed into law this February, has significantly changed the planning strategies for Medicaid and long-term assisted care.

Two of the most significant changes involves Medicaid’s “lookback” period and the penalty period calculation. Most people realize a penalty period exists for gifts made within three years of applying for Medicaid. The new law extends the lookback period from three years to five years and changes the starting date of the penalty period.

The penalty period is calculated by dividing the value of gifts made within the lookback period by the published average monthly cost of nursing home care in Missouri. For 2006 that monthly cost divisor is $2,852. Thus, if $28,520 of gifts were made during the lookback period – the individual would be ineligible for Medicaid assistance for 10 months. Under prior law, the penalty period started at the date of the gift. As a result, most penalty periods ended prior to the application for Medicaid. Under the new law, the penalty period will not start until the date the transferor enters the nursing home and would otherwise be eligible for Medicaid coverage. Thus, any transfers for less than fair value during the lookback period will always result in a penalty period.
Many elder care planning professionals are suggesting these changes will encourage the purchase of long-term care insurance as a means of managing the risks associated with long-term disability and long-term elder care.

Elder and long-term care planning has always been an important component of business and estate planning. However, if succession planning or substantial gifting are components of your business estate planning – disability and long-term elder care planning just got more important.