

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C.

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FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): **March 4, 2009**

**BioScrip, Inc.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**

(State or Other Jurisdiction of Incorporation)

**0-28740**

(Commission  
File Number)

**05-0489664**

(IRS Employer  
Identification No.)

**100 Clearbrook Road, Elmsford, New York**

(Address of Principal Executive Offices)

**10523**

(Zip Code)

Registrant's telephone number, including area code **(914) 460-1600**

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(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12).
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240-14d-2(b)).
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).
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**Item 1.01 Entry into a Material Definitive Agreement.**

Item 3.03 below is incorporated herein by reference.

**Item 3.03 Material Modification to Rights of Security Holders.**

On March 3, 2009, Heartland Advisors, Inc. (“Heartland”) advised management of the Company that it would like to like to acquire additional shares of the Company’s Common Stock such that Heartland’s ownership would exceed 20% of the outstanding shares of the Company Common Stock, the threshold amount for Heartland becoming an Acquiring Person and triggering the occurrence of a “Distribution Date” under the Amended and Restated Rights Agreement (the “Rights Agreement”), dated as of December 3, 2002, between Bioscrip, Inc. (f/k/a/ MIM Corporation), a Delaware corporation (the “Company”), and American Stock Transfer & Trust Company, a New York corporation (as amended by Amendment No. 1 dated December 13, 2006, collectively the “Rights Agent”). In response to this request, on March 4, 2009 the Company entered into the Second Amendment to the Rights Agreement (the “Second Amendment”) to exclude Heartland from the definition of “Acquiring Person” unless it becomes, together with its affiliates and associates, the beneficial owner of 22.5% or more of the outstanding shares of the Company’s common stock, other than as a result of repurchases by the Company of shares of the Company’s common stock. Under the Rights Agreement, as amended, any person other than Heartland would become an Acquiring Person upon the acquisition, either alone or together with the affiliates and associates of that person, of the beneficial ownership of 15% or more of the outstanding shares of the Company’s common stock.

The foregoing summary of the Second Amendment does not purport to be complete and is qualified in its entirety by reference to the complete text of the Second Amendment, a copy of which is filed with this report as Exhibit 10.1.

**Item 9.01 Financial Statements and Exhibits.**

(c) Exhibits.

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
10.1	Second Amendment, dated March 4, 2009, to the Amended and Restated Rights Agreement, dated as of December 3, 2002 (the “Rights Agreement”), between the Company and American Stock Transfer & Trust Company, as Rights Agent.

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned duly authorized.

Date: March 4, 2009

BIOSCRIP, INC.

By: /s/ Barry A. Posner  
Barry A. Posner, Executive Vice President  
Secretary and General Counsel

**SECOND AMENDMENT  
TO  
AMENDED AND RESTATED  
RIGHTS AGREEMENT**

**THIS SECOND AMENDMENT** (this "Amendment") is made as of March 4, 2009 between Bioscrip, Inc. (f/k/a/ MIM Corporation), a Delaware corporation (the "Company"), and American Stock Transfer & Trust Company, a New York corporation (the "Rights Agent"). This Amendment amends the Amended and Restated Rights Agreement, dated as of December 3, 2002, between the Company and the Rights Agent (the "Rights Agreement"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Rights Agreement.

**WHEREAS**, the Rights Agreement provides for the occurrence of certain events on the Distribution Date if a Person becomes the Beneficial Owner of 15% or more of the shares of Company Common Stock then outstanding or 20% or more of the shares of Company Common Stock then outstanding in the case of Heartland Advisors, Inc. ("Heartland");

**WHEREAS**, based on information contained in an amended Schedule 13G filed by Heartland with the Securities and Exchange Commission on February 11, 2009, Heartland currently owns 18.9% of the outstanding shares of Company Common Stock;

**WHEREAS**, Heartland would like to acquire additional shares of Company Common Stock such that Heartland's ownership would exceed 20% of the outstanding shares of Company Common Stock; and

**WHEREAS**, the Company desires to further amend the Rights Agreement in accordance with Section 26 thereof to allow for such acquisition by Heartland without Heartland being deemed an Acquiring Person under the Rights Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements set forth herein, the parties hereby agree to amend the Rights Agreement as follows:

1. Amendment of Section 1, definition of "Acquiring Person". The definition of "Acquiring Person" in Section 1 of the Rights Agreement is amended to read as follows:

"Acquiring Person" shall mean any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such a plan acting in such capacity) who or which, alone or together with all Affiliates and Associates of such Person, is the Beneficial Owner of 15% or more of the shares of Company Common Stock then outstanding; provided, however, that Heartland Advisors, Inc. ("Heartland") shall not be deemed to be an Acquiring Person unless it is, alone or together with its Affiliates and Associates, the Beneficial Owner of 22.5% or more of the shares of Company Common Stock then outstanding. Notwithstanding the foregoing, (i) no Person shall become an "Acquiring Person" as a result of an acquisition of Company Common Stock by the Company which, by reducing the number of shares of the Company Common Stock outstanding, increases the proportionate number of shares Beneficially Owned by such Person to 15% or more (or 22.5% or more in the case of Heartland) of the Company Common Stock then

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outstanding; provided, however, that if a Person shall become the Beneficial Owner of 15% or more (or 22.5% or more in the case of Heartland) of the Company Common Stock by reason of share purchases by the Company and shall, after such share purchases by the Company, become the Beneficial Owner of any additional Company Common Stock other than as a direct or indirect result of any corporate action taken by the Company, then such Person shall be deemed to be an "Acquiring Person"; and (ii) if a majority of the Board determines in good faith that a Person who would otherwise be an "Acquiring Person," as defined pursuant to the first sentence of this definition, has become such inadvertently (including, without limitation, because (a) such Person was unaware that it Beneficially Owned 15% or more (or 22.5% or more in the case of Heartland) of the Company Common Stock or (b) such Person was aware of the extent of such Beneficial Ownership but such Person acquired Beneficial Ownership of such shares of Company Common Stock without the intention to change or influence the control of the Company and without actual knowledge of the consequences of such Beneficial Ownership under this Agreement), and such Person divests itself as promptly as practicable of a sufficient number of shares of Company Common Stock so that such Person would no longer be an "Acquiring Person," as defined pursuant to the first sentence of this definition, then such Person shall not be deemed to be, or have been, an "Acquiring Person" for any purposes of this Agreement, and no Stock Acquisition Date shall be deemed to have occurred. All questions as to whether a Person who would otherwise be an Acquiring Person has become such inadvertently shall be determined in good faith by the Board, which determination shall be conclusive for all purposes."

2. Effectiveness. This Amendment shall be deemed effective as of the date first written above. Except as expressly amended hereby, all of the terms and provisions of the Rights Agreement are and shall remain in full force and effect and shall be otherwise unaffected by this Amendment.

3. Severability. If any term, provision, covenant or restriction of this Amendment is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Amendment shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

4. Governing Law. This Amendment shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State.

5. Counterparts. This Amendment may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

6. Descriptive Headings. Descriptive headings of the several Sections of this Amendment are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first above written.

**BIOSCRIP, INC.**

By: /s/ Barry A. Posner \_\_\_\_\_ ☐ 0;  
Name: Barry A. Posner  
Title: Executive Vice President, Secretary  
and General Counsel

**AMERICAN STOCK TRANSFER & TRUST COMPANY**

By: /s/ Joseph Wolf \_\_\_\_\_ &# 160;  
Name: Joseph Wolf  
Title: Vice President