

EXPRESS SCRIPTS INC  
Form 8-K  
December 18, 2009

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**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): December 18, 2009**

**EXPRESS SCRIPTS, INC.**

**(Exact Name of Registrant as Specified in its Charter)**

**DELAWARE  
(State or Other Jurisdiction of  
Incorporation or Organization)**

**0-20199  
(Commission File Number)**

**43-1420563  
(I.R.S. Employer  
Identification No.)**

**One Express Way, St. Louis, MO  
(Address of Principal Executive Offices)**

**63121  
(Zip Code)**

Registrant's telephone number including area code: 314-996-0900

No change since last report

(Former Name or 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 (*see* General Instruction A.2. below):

- 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**

On December 18, 2009, the Board of Directors of Express Scripts, Inc. (the Company ) approved an amendment to that certain Rights Agreement, dated as of July 25, 2001, between the Company and American Stock Transfer & Trust Company, as Rights Agent, as amended (the Rights Agreement ). The amendment revises the form of Certificate of Designations of Series A Junior Participating Preferred Stock (the Certificate of Designations ) to reduce the supermajority voting standard for amendments to a majority of the outstanding shares of the Series A Preferred Stock, voting separately as a class.

The foregoing summary of the amendment to the Rights Agreement is qualified in its entirety by reference to the text of Amendment No. 2 to Rights Agreement, a copy of which is filed herewith as Exhibit 10.1, and incorporated herein by reference. The full text of the Rights Agreement was filed as Exhibit No. 4.1 to the Company s Current Report on Form 8-K filed July 31, 2001, and Amendment No. 1 thereto was filed as Exhibit 10.1 to the Company s Current Report on Form 8-K filed May 31, 2005.

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

The information contained in Items 1.01 and 5.03 hereof are incorporated by reference herein.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On December 18, 2009, the Board of Directors (the Board ) of the Company amended, effective immediately, Section 6.9 of the Company s Third Amended and Restated Bylaws (the Bylaws ) to remove the supermajority provisions from Bylaws and to provide that the Bylaws may be amended by a majority of the voting power of then outstanding stock entitled to vote thereon.

Additionally, on December 18, 2009, the Board amended, effective as of the same date upon filing of the Certificate of Amendment with the Secretary of State of the State of Delaware, the Certificate of Designations of Series A Junior Participating Preferred Stock (the Certificate of Designations ) to reduce the supermajority voting standard for amendments to a majority of the outstanding shares of the Series A Preferred Stock, voting separately as a class.

The foregoing summaries of the Certificate of Amendment of the Certificate of Designations and the Bylaws are qualified in their entirety by reference to the text of the Certificate of Amendment of the Certificate of Designations and Section 6.9 of the Bylaws, copies of which are filed herewith as Exhibit 3.1 and 3.3, and incorporated herein by reference.

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**SIGNATURE**

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 thereunto duly authorized.

EXPRESS SCRIPTS, INC.  
(Registrant)

Date: December 18, 2009

By: /s/ Keith J. Ebling  
Keith J. Ebling  
General Counsel

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**Exhibit Index**

| Exhibit No. | Exhibit  |
|-------------|--|
| 3.1         | Certificate of Amendment of the Certificate of Designations of Series A Junior Participating Preferred Stock of Express Scripts, Inc.  |
| 3.2         | Article 10 of the Certificate of Certificate of Designations of Series A Junior Participating Preferred Stock of Express Scripts, Inc., marked to show amendments effective December 18, 2009. |
| 3.3         | Section 6.9 of the Bylaws of Express Scripts, Inc.   |
| 3.4         | Section 6.9 of the Bylaws of Express Scripts, Inc., marked to show amendments effective December 18, 2009.   |
| 10.1        | Amendment No. 2 to Rights Agreement between the Corporation and American Stock Transfer & Trust Company, as Rights Agent, dated December 18, 2009  |