

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

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FILER

MAXXIM MEDICAL INC

CIK: **858660** | IRS No.: **760291634** | State of Incorpor.: **TX** | Fiscal Year End: **1031**

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SIC: **3842** Orthopedic, prosthetic & surgical appliances & supplies

Mailing Address

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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): October 27, 1999

MAXXIM MEDICAL, INC.

(Exact Name of Registrant as Specified in Charter)

Texas

(State of Incorporation)

0-18208

(Commission
File Number)

76-0291634

(IRS Employer
Identification No.)

10300 49th Street North
Clearwater, Florida

(Address of Principal Executive Offices)

33762

(Zip Code)

Registrant's telephone number, including area code: (727) 561-2100

ITEM 5. OTHER EVENTS.

Fox Paine Medic Acquisition Corporation ("Fox Paine Maxxim") has received financing commitments for \$110.0 million of Senior Subordinated Discount Notes due 2009 (the "Senior Subordinated Discount Notes") of Maxxim Medical Group, Inc. (the "Issuer"), a newly formed Delaware corporation that will become a

wholly owned subsidiary of Maxxim Medical, Inc., a Texas corporation (the "Company"), and related warrants to purchase shares of Company common stock, to be issued in a private placement in connection with the proposed recapitalization of the Company. Pursuant to an Agreement and Plan of Merger, dated as of June 13, 1999, as amended, between Fox Paine Maxxim and the Company (the "Merger Agreement"), the proposed recapitalization of the Company will involve, among other transactions, (1) the sale to Circon Holdings Corporation (formerly Fox Paine Citron Acquisition Corporation) ("Fox Paine Circon") of all of the capital stock of Circon Corporation ("Circon"), an indirect wholly owned subsidiary of the Company (the "Circon Sale"), which would be purchased for \$228.0 million in cash (reduced by any intercompany indebtedness owed by Circon to its parent corporation immediately prior to the consummation of the Circon Sale) and (2) the merger of Fox Paine Maxxim with and into the Company (the "Merger"). The Merger, the Circon Sale and the related transactions and financing arrangements provided for in the Merger Agreement are referred to collectively as the "Recapitalization." Fox Paine Maxxim and Fox Paine Circon are newly formed corporations that were formed by affiliates of Fox Paine & Company, LLC ("Fox Paine") in connection with the Recapitalization.

Funding for the Recapitalization (including the pending tender offer by the Company for any and all of its outstanding 10 1/2% Senior Subordinated Notes due 2006 (the "Tender Offer") and the refinancing of the Company's indebtedness under its existing credit facilities) is expected to be obtained from the following sources:

- o \$110.0 million from the issuance by the Issuer of the Senior Subordinated Discount Notes and related warrants. The Senior Subordinated Discount Notes and related warrants will not have been registered for sale under the Securities Act of 1933, as amended (the "Securities Act"), and will not be eligible for offer or sale in the United States absent registration or an applicable exemption from registration requirements;
- o Up to \$261.6 million from borrowings under new senior secured Term Loan facilities (the "Term Loans") and a new \$50.0 million senior secured revolving credit facility (the "Revolving Credit Facility" and, together with the Term Loans, the "New Credit Facilities") for the Issuer committed by The Chase Manhattan Bank, Bankers Trust Company, Merrill Lynch Capital Corporation, Canadian Imperial Bank of Commerce and Credit Suisse First Boston. The Term Loans will consist of (1) an \$80.0 million Term Loan A Facility, (2) a \$90.0 million Term Loan B Facility and (3) a \$90.0 million Term Loan C Facility. It is currently expected that the Issuer will have \$48.4 million of unused borrowing capacity under the Revolving Credit Facility upon consummation of the Recapitalization;
- o \$50.0 million from senior unsecured discount notes and related warrants to be issued by the Company in a private placement. The

senior unsecured discount notes and related warrants to be issued by the Company will not have been registered for sale under the Securities Act and will not be eligible for offer or sale in the United States absent registration or an exemption from registration requirements;

- o \$150.0 million from (1) the purchase by affiliates of Fox Paine and certain institutional investors (collectively, the "Investors") of shares of Fox Paine Maxxim common stock, which will be converted in the Merger into shares of Company common stock, (2) shares of Company common stock retained by a group of ten current Company shareholders, including eight members of senior management of the Company (the "Management Investors"), and (3) the sale of new shares of Company common stock to the Management Investors; and
- o \$228.0 million from the Circon Sale.

The increase in the cash purchase price to be paid in the Circon Sale from \$208.0 million to \$228.0 million will be funded with additional equity contributed to Fox Paine Circon by the Investors.

This Current Report on Form 8-K updates certain information contained in the offer to purchase and consent solicitation statement relating to the Tender Offer.

Assuming the various conditions to the closing of the Recapitalization transactions have been satisfied or waived, the Company currently expects to consummate the Recapitalization transactions in mid-November 1999, although there can be no assurance that the closing will not be later.

On October 27, 1999, the Company issued a press release announcing, among other things, that the Company had extended the expiration date of the Tender Offer, a copy of which press release is attached as Exhibit 99.1 hereto and incorporated herein by reference.

On November 3, 1999, the Company issued a press release announcing the approval by its shareholders of the Agreement and Plan of Merger, dated as of June 13, 1999, as amended, between Fox Paine Medic Acquisition Corporation and the Company. A copy of the press release is attached hereto as Exhibit 99.2 and incorporated herein by reference.

ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS

(c) Exhibits. The following exhibits are filed as part of this report:

99.1 Press release, dated October 27, 1999, issued by Maxxim Medical, Inc.

99.2 Press release, dated November 3, 1999, issued by Maxxim Medical,

Inc.

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: November 9, 1999

MAXXIM MEDICAL, INC.

By: /s/ Alan S. Blazei

Name: Alan S. Blazei

Title: Executive Vice President,
Treasurer and Controller
(Principal Accounting Officer)

EXHIBIT INDEX

Exhibit Number	Description
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99.1	Press release, dated October 27, 1999, issued by Maxxim Medical, Inc.
99.2	Press release, dated November 3, 1999, issued by Maxxim Medical, Inc.

FOR IMMEDIATE RELEASE

MAXXIM MEDICAL, INC. EXTENDS CASH TENDER OFFER FOR ITS
10 1/2% SENIOR SUBORDINATED NOTES DUE 2006 AND RESETS PRICE

CLEARWATER, FL, October 27, 1999 - Maxxim Medical, Inc. (NYSE: MAM) today announced that it has extended the time and date of the expiration for its offer to purchase for cash any and all of the \$100 million aggregate principal amount of its outstanding 10 1/2% Senior Subordinated Notes due 2006 to 12:01 a.m., New York City time, on Wednesday, November 10, 1999 (the "Tender Offer Expiration Date"), unless further extended. The tender offer had been scheduled to expire at 12:01 a.m., New York City time, on Friday, October 29, 1999.

Maxxim also announced that it has set a new Price Determination Date of October 27, 1999. Based upon an assumed payment date of November 10, 1999, the consideration to be paid for each \$1,000 principal amount of validly tendered Notes not withdrawn (the "Tender Offer Consideration") would be (i) \$1,092.15, the present value of \$1,052.50 (the redemption price payable on August 1, 2001 (the first date on which the Notes are redeemable)) determined on the basis of the yield (the "Tender Offer Yield") to August 1, 2001 equal to the sum of (x) 5.94% (the yield on the 5 1/2% U.S. Treasury Note due July 31, 2001, as calculated by Chase Securities Inc. in accordance with standard market practice, based on the bid price for such security as of 2:00 p.m., New York City time, on October 27, 1999 (the "Price Determination Date"), the tenth business day immediately preceding the Tender Offer Expiration Date, as displayed on the Bloomberg Government Pricing Monitor on "Page PX4") plus (y) 50 basis points, plus (ii) the present value on the date on which the Notes are accepted for payment (the "Payment Date") of each of the interest payments on the Notes scheduled to be paid after the Payment Date up to and including August 1, 2001, determined on the basis of the Tender Offer Yield, less accrued and unpaid interest up to, but not including, the Payment Date, minus (iii) \$20.00. Tendering holders will also receive accrued and unpaid interest up to, but not including, the Payment Date. In addition to the Tender Offer Consideration, the Company will pay to each registered holder of the Notes who validly delivered a consent on or prior to 5:00 p.m., New York City time, on October 15, 1999 (the "Consent Expiration Date") an amount in cash equal to \$20.00 for each \$1,000 principal amount of the Notes for which consents were delivered and not validly revoked as of the Consent Expiration Date and as to which the related tendered Notes are not withdrawn prior to the Tender Offer Expiration Date, with such payment being made on the Payment Date. The total consideration with respect to each \$1,000 principal amount of the validly tendered Notes and the related validly delivered consent would be \$1,112.15, based upon the assumed Payment Date.

As previously announced, holders of over \$99.9 million of the Notes had delivered consents to the amendments and tendered their Notes prior to the Consent Expiration Date. As of the date of this release, no Notes had been

withdrawn. Tendered Notes may be withdrawn at any time prior to the Tender Offer Expiration Date.

In the event that the offer to purchase the Notes is extended for any period of time longer than ten full business days from the previously scheduled Tender Offer Expiration Date, a new

Price Determination Date will be established. In the event that the offer to purchase the Notes is extended for any period of time less than ten full business days from the previously scheduled Tender Offer Expiration Date, a new Price Determination Date may be established. In either event, the Tender Offer Expiration Date will not be less than ten business days from such new Price Determination Date.

Maxxim commenced the tender offer in connection with its previously announced proposal to merge with Fox Paine Medic Acquisition Corporation and recapitalize the company. Assuming that the various conditions to closing the transactions have been satisfied or waived, Maxxim currently expects to consummate the merger and the tender offer in mid-November 1999, although there can be no assurance that the closing will not be later.

Information regarding the pricing, tender and delivery procedures and conditions of the tender offer are contained in the Offer to Purchase and Consent Solicitation Statement dated September 30, 1999 (the "Statement") and related documents, which have been sent to the holders of the Notes. Chase Securities Inc. is the exclusive Dealer Manager and Solicitation Agent for the tender offer. Any questions regarding the tender offer may be directed to Robert Berk at Chase Securities Inc. at (212) 270-1100 (collect). The Statement and related documents can be obtained by contacting MacKenzie Partners, Inc., the Information Agent, at (212) 929-5500 (collect) or (800) 322-2885 (toll free).

Maxxim Medical, Inc. is a diversified developer, manufacturer, distributor and marketer of specialty medical products.

This news release is neither an offer to purchase nor a solicitation of an offer to sell securities. The tender offer and consent solicitations are made only by the Statement and related documents.

CONTACT: Mary Lugris
Investor Relations
(727) 561-2100

FOR IMMEDIATE RELEASE

MAXXIM ANNOUNCES SHAREHOLDER APPROVAL OF MERGER

CLEARWATER, FL, November 3, 1999 - Maxxim Medical, Inc. (NYSE: MAM) announced today that, at the special meeting of its shareholders held earlier today, its shareholders approved the previously announced Agreement and Plan of Merger, dated as of June 13, 1999, as amended (the "Merger Agreement"), between Fox Paine Medic Acquisition Corporation and Maxxim, pursuant to which Fox Paine Medic Acquisition Corporation will be merged with and into Maxxim and each share of Maxxim common stock (including the associated preferred stock purchase rights), other than a portion of the shares held by certain officers, directors and significant shareholders, and shares held by dissenting shareholders, will be converted into the right to receive \$26.00 in cash, without interest (the "Merger"). More than 66% of the outstanding shares of Maxxim common stock were voted in favor of approval of the Merger Agreement. Assuming that the various conditions to closing the Merger and other transactions contemplated by the Merger Agreement have been satisfied or waived, Maxxim currently expects to consummate the Merger and the other transactions in mid-November 1999, although there can be no assurance that the closing will not be later. Promptly following the closing of the Merger, shareholders will be sent instructions detailing the necessary steps to surrender their shares of Maxxim common stock and receive the cash consideration.

Maxxim Medical, Inc. is a diversified developer, manufacturer, distributor and marketer of specialty medical products.

Contact: Mary Lugris
Investor Relations
727-561-2100