

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 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 24, 2014**

ZIVO BIOSCIENCE, INC.

(f/k/a Health Enhancement Products, Inc.)

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation)

000-30415

(Commission File Number)

87-0699977

(IRS Employer Identification No.)

2804 Orchard Lake Road, Suite 202, Keego Harbor Michigan 48320

(Address of principal executive offices) (Zip Code)

(248) 452-9866

Registrant's telephone number, including area code

Not applicable

(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))

Item 1.01. Entry into a Material Definitive Agreement

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

Entry into a Material Definitive Agreement Creation of a Direct Financial Obligation

On December 24, 2014, the Registrant and HEP Investments, LLC, a Michigan limited liability company (“Lender”), entered into the following documents, effective as of December 1, 2014: (i) Fourth Amendment to Loan Agreement under which the Lender has agreed to advance up to a total of \$6,000,000 to the Registrant, subject to certain conditions, and (ii) a Fifth Amended and Restated Senior Secured Convertible Promissory Note. The Fourth Amendment to Loan Agreement amends and restates the Third Amendment to Loan Agreement, which was entered into with HEP Investments on July 16, 2014 and disclosed in the Registrant’s Form 8-K Current Report filed on July 16, 2014.

As of December 1, 2014, the Lender had advanced the Registrant \$5,335,000. As disclosed in the Form 10-Q for the quarter ended September 30, 2014, filed on November 14, 2014, HEP Investments has advanced these monies under the following terms:

- A. \$2,660,000 to be convertible into the Registrant’s restricted common stock at the lesser of \$.12 per share or a 25% discount off of the ten day trailing quoted price of the common stock in the over the counter (OTC) market, with interest at the rate of 11% per annum.
- B. \$1,285,000 to be convertible into the Registrant’s restricted common stock at the lesser of \$.15 per share or a 25% discount off of the ten day trailing quoted price of the common stock in the over the counter (OTC) market, with interest at the rate of 11% per annum.
- C. \$640,000 to be convertible into the Registrant’s restricted common stock at the lesser of \$.22 per share or a 25% discount off of the ten day trailing quoted price of the common stock in the over the counter (OTC) market, with interest at the rate of 11% per annum.
- D. \$750,000 to be convertible into the Registrant’s restricted common stock at the lesser of \$.30 per share or a 25% discount off of the ten day trailing quoted price of the common stock in the over the counter (OTC) market, with interest at the rate of 11% per annum.

Effective December 1, 2014, the Lender agreed to amend the calculation of the conversion price for the convertible promissory note. Previously, the outstanding principal and interest under the note had been convertible into shares of common stock at the lower of the stated price per share or a 25% discount off of the ten day trailing quoted price of the common stock in the over the counter (OTC) market. Following the amendment, the convertible note is convertible into shares of common stock at the stated price per share conversion rate (eliminating the lower of 25% discount off of the ten day trailing quoted price of the common stock).

Based on the above, the total shares of common stock, if the Lender converted the complete \$5,335,000 convertible debt, would be 36,142,424 shares, not including any interest due which may be converted into common stock. Interest due as of November 30, 2014 was \$904,662, which would be convertible into 6,595,499 shares at the stated conversion rate.

Amounts advanced under the Note are secured by all the Registrant’s assets.

The Registrant has made certain agreements with the Lender which shall remain in effect as long as any amount is outstanding under the Loan. These agreements include an agreement not to make any change in the Registrant’s senior management. Two representatives of the Lender will have the right to attend Board of Director meetings as non-voting observers.

Item 9.01. Financial Statements and Exhibits

Exhibit 10.31 Fourth Amendment to Loan Agreement with HEP Investments, LLC dated December 1, 2014

Exhibit 10.32 Fifth Amended and Restated Senior Secured Convertible Promissory Note with HEP Investments, LLC dated December 1, 2014

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 hereunto duly authorized.

ZIVO BIOSCIENCE, INC.

Date: December 29, 2014

By: /s/ Philip M. Rice, II
Philip M. Rice, II
Chief Financial Officer

FOURTH AMENDMENT TO LOAN AGREEMENT

This Fourth Amendment to Loan Agreement (“Fourth Amendment”) is made and entered into as of December 1, 2014 by and between HEP INVESTMENTS LLC, a Michigan limited liability company (“Lender”), and **ZIVO BIOSCIENCE, INC.** (**formerly** HEALTH ENHANCEMENT PRODUCTS, INC.), a Nevada corporation (“Borrower”).

RECITALS

A. Borrower and Lender entered into a Third Amendment to Loan Agreement, dated as of July 1, 2014, a Second Amendment to Loan Agreement, dated as of July 16, 2013 and a First Amendment to Loan Agreement, dated as of April 15, 2013, which amended the Loan Agreement dated as of December 1, 2011 (as the same may be amended, modified or restated from time to time, the “Loan Agreement”) whereby Lender made a loan to Borrower evidenced by an Amended and Restated Senior Secured Convertible Promissory Note, dated as of December 1, 2011, which has been amended pursuant to a Second Amended and Restated Senior Secured Convertible Promissory Note dated December 16, 2013 a Third Amended and Restated Senior Secured Convertible Promissory Note dated March 17, 2014, a Fourth Amended and Restated Senior Secured Convertible Promissory Note dated July 1, 2014 made by Borrower in favor of Lender.

B. Borrower and Lender desire to make certain changes to the Loan Agreement upon the terms and conditions hereinafter set forth in connection with the execution of a Fifth Amended and Restated Senior Convertible Promissory Note dated of even date herewith, including the consent of the Guarantors to such amendment endorsed hereon.

NOW THEREFORE, in consideration of the covenants and agreements of the parties, Borrower and Lender, with the consent and agreement of the undersigned Guarantors (each a “Guarantor” and collectively the “Guarantors”), agree as follows:

1. **Capitalized Terms.** Capitalized terms used but not otherwise defined in this Fourth Amendment shall have the meanings given to such terms in the Loan Agreement.

2. **Continued Effect.** Except as specifically modified or amended by the terms of this Fourth Amendment, all other terms and provisions of the Loan Agreement and all other Loan Documents (as defined in the Loan Agreement) shall continue in full force and effect. By execution of this Amendment, Borrower and each Guarantor hereby reaffirms, assumes and binds itself to all of the obligations, duties, rights, covenants, terms and conditions that are contained in the Loan Agreement, the Note and the other Loan Documents. Borrower and each Guarantor hereby acknowledges and agrees that (i) the liens created and provided for by the Loan Documents continue to secure all obligations under the Loan Agreement as amended hereby. Nothing herein contained shall in any manner affect or impair the priority of the liens and security interests created and provided for by the Loan Documents as to the indebtedness which would be secured thereby prior to giving effect to this Amendment.

3. Amendments to Sections 1 and 2. Sections 1 and 2 of the Loan Agreement are hereby deleted in their entirety and replaced with the following:

“**1. Loan.** Lender agrees to make a loan to Borrower in the amount of up to \$6,000,000 (the “Loan”) in accordance with the terms of that certain Fifth Amended and Restated Senior Secured Convertible Promissory Note attached hereto as Exhibit A (the “Note”).

2. Funding Timing. Lender hereby agrees to fund the proceeds of the Note as follows:

(a) Lender will fund portions of the remainder of the \$6,000,000.00 (the Loan amount prior to this Fourth Amended Loan Agreement) of the Loan at such times as it determines in its discretion after the execution and delivery of this Fourth Amendment and the Note. After giving effect to such additional advance(s), Lender and Borrower shall document the total balance of the Loan.

(b) In the event that Borrower requires additional financing, Borrower shall so notify Lender and advise Lender of the intended use of proceeds of such financing. Lender shall have the right, but not the obligation, to advance such amount under the Loan (but in no event more than an additional \$250,000 in the aggregate) within twenty (20) days after request therefor. If Lender refuses to fund such amount or fails to do so within such 20-day period, Borrower shall have the right to seek such financing from a third-party on terms and conditions no more favorable to the lender than those set forth in the Loan and Lender will be deemed to have waived the covenants set forth in Section 9(c) and (d) of the Loan Agreement with respect to such financing.”

4. Guarantors Consent. The Guarantors hereby consent to this Fourth Amendment and acknowledge and agree that their Guaranties remain in full force and effect in accordance with their respective terms, including the increase in the amount of the Loan, and that the Guarantors have no defenses, setoff of counterclaims with respect thereto.

5. Authority. Each individual executing this Fourth Amendment on behalf of the respective parties hereto represents and warrants that he/she is duly authorized to execute and deliver this Fourth Amendment on behalf of the respective party hereto and that this Fourth Amendment is binding upon the respective party in accordance with its terms.

6. Counterparts. This Fourth Amendment may be executed in one or more counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. Copies (whether photostatic, facsimile or otherwise) of this Fourth Amendment may be made and relied upon to the same extent as an original.

[Signatures on next page]

IN WITNESS WHEREOF, Lender, Borrower and Guarantors have executed this Fourth Amendment to Loan Agreement as of the date first written above.

BORROWER:

ZIVO BIOSCIENCE, INC. (formerly HEALTH ENHANCEMENT PRODUCTS, INC.), a Nevada corporation

By: /s/ Philip M. Rice, II
Name: Philip M. Rice, II
Title: Chief Financial Officer

LENDER:

HEP INVESTMENTS LLC, a Michigan limited liability company

By: /s/ Laith Yaldao
Laith Yaldao, Manager

ACKNOWLEDGED AND AGREED BY THE UNDERSIGNED GUARANTORS:

HEALTH ENHANCEMENT CORPORATION, a Nevada corporation

By: /s/ Philip M. Rice, II
Print Name: Philip M. Rice, II
Its: Chief Financial Officer

HEPI PHARMACEUTICALS, INC., a Delaware corporation

By: /s/ Philip M. Rice, II
Print Name: Philip M. Rice, II
Its: Chief Financial Officer

**FIFTH AMENDED AND RESTATED
SENIOR SECURED CONVERTIBLE PROMISSORY NOTE**

\$6,000,000

Keego Harbor, Michigan
December 1, 2014

FOR VALUE RECEIVED, **ZIVO BIOSCIENCE, INC. (formerly HEALTH ENHANCEMENT PRODUCTS, INC.)**, a Nevada corporation ("Borrower"), whose address is 2804 Orchard Lake Road, Suite 202, Keego Harbor, Michigan 48320, promises to pay to the order of **HEP INVESTMENTS LLC**, a Michigan limited liability company ("Lender"), whose address is 2804 Orchard Lake Road, Suite 205, Keego Harbor, Michigan 48320, or at such other place as Lender may designate in writing, in lawful money of the United States of America, the principal sum of up to Six Million Dollars (\$6,000,000.00), or such lesser sum as shall have been advanced by Lender to Borrower under the loan agreement hereinafter described, together with interest as provided herein, in accordance with the terms of this Fifth Amended and Restated Senior Secured Convertible Promissory Note (this "Note").

In accordance with the terms of that certain Loan Agreement, dated December 1, 2011, by and between Lender and Borrower, as amended in the First Amendment to Loan Agreement dated April 15, 2013, the Second Amendment to Loan Agreement dated December 13, 2013, the Third Amendment to Loan Agreement dated July 1, 2014 and the Fourth Amendment to Loan Agreement of even date herewith (as amended, the "Loan Agreement"), Lender has intends to loan to the Borrower up to Six Million Dollars (\$6,000,000.00). All advances made hereunder shall be charged to a loan account in Borrower's name on Lender's books, and Lender shall debit to such account the amount of each advance made to, and credit to such account the amount of each repayment made by Borrower. From time to time but not less than quarterly, Lender shall furnish Borrower a statement of Borrower's loan account, which statement shall be deemed to be correct, accepted by, and binding upon Borrower, unless Lender receives a written statement of exceptions from Borrower within ten (10) days after such statement has been furnished. Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Loan Agreement.

1. Payment. The unpaid principal balance of this Note shall bear interest computed upon the basis of a year of 360 days for the actual number of days elapsed in a month at a rate of eleven percent (11%) per annum (the "Effective Rate"). Upon the occurrence and during the continuance of an Event of Default (as defined below), the unpaid principal balance of this Note shall bear interest, computed upon the basis of a year of 360 days for the actual number of days elapsed in a month, at a rate equal to the lesser of five percent (5%) over the Effective Rate or the highest rate allowed by applicable law. The indebtedness represented by this Note shall be paid to Lender in an installment of interest only on the first anniversary of the date of each Tranche on Exhibit 1 to this Note (a "Tranche"), and, if not sooner converted in accordance with the terms of this Note, the entire unpaid principal balance of this Note, together with all accrued and unpaid interest, shall be immediately due and payable in full (a) with respect to each Tranche on the Due Date specified in Exhibit 1 and (b) with respect to any additional Tranche within 24 months of the full funding of such Tranche (with respect to each Tranche, a "Due Date").

2. Pre-payment Premium. Borrower may prepay the principal balance of this Note, in whole or in part, plus all accrued interest then outstanding upon sixty (60) days prior written notice to Lender; provided, however, there shall be a pre-payment premium of five (5%) percent of each amount prepaid at any time during the term of this Note.

3. Use of Proceeds. The funds advanced pursuant to this Note shall be used by Borrower for working capital.

4. Conversion Right and Funding Provisions.

(a) At Lender's option, at any time prior to the repayment in full of this Note, any or all Tranches of the outstanding indebtedness of this Note (including all accrued and unpaid interest) may be converted into validly issued and fully paid shares of common stock of Borrower ("Shares") at the conversion rate as listed in Exhibit 1 (as appropriately adjusted by any stock split, stock combination or other corporate recapitalization affecting such common stock occurring after the date hereof, the "Conversion Price").

(b) Upon conversion of this Note as provided herein, (i) the portion of this Note so converted shall be deemed cancelled and shall be converted into the Shares as specified above; (ii) Lender, by acceptance of this Note, agrees to deliver the executed original of this Note to Borrower within ten (10) days of the conversion of the entire outstanding indebtedness of this Note and to execute all governing documents of Borrower and such other agreements as are necessary to document the issuance of the Shares and to comply with applicable securities laws; and (iii) as soon as practicable after Borrower's receipt of the documents referenced above, Borrower shall issue and deliver to Lender stock certificates evidencing the Shares.

5. Default. Each of the following constitutes an “Event of Default” under this Note:

(a) Borrower’s failure to pay the outstanding indebtedness of this Note within ten (10) days of the date on which such payment is due hereunder, whether at maturity or otherwise;

(b) Borrower’s breach of or failure to perform or observe any covenant, condition or agreement contained in this Note, the Loan Agreement or the Security Agreement (defined below), which breach or failure continues unremedied for a period of thirty (30) calendar days after receipt by Borrower of written notice specifying the nature of the default. Notwithstanding the foregoing, Borrower shall not be in default under this subsection (b) with respect to any non-monetary breach that can be cured by the performance of affirmative acts if Borrower promptly commences the performance of said affirmative acts and diligently prosecutes the same to completion within a period of forty-five (45) calendar days after receipt by Borrower of written notice specifying the nature of the default;

(c) Borrower files a voluntary petition in bankruptcy;

(d) Borrower makes a general assignment for the benefit of its creditors or Borrower’s creditors file against Borrower any involuntary petition under any bankruptcy or insolvency law that is not dismissed within ninety (90) days after it is filed; or

(e) Any court appoints a receiver to take possession of substantially all of Borrower’s assets and such receivership is not terminated within ninety (90) days after its appointment.

Upon the occurrence and during the continuance of an Event of Default, at the election of Lender, the entire unpaid principal balance of this Note, together with all accrued and unpaid interest, shall be immediately due and payable in full.

6. Security. This Note is secured by all of the assets of Borrower pursuant to that certain Security Agreement, dated as of December 1, 2011 (the “Security Agreement”).

7. Waivers. Borrower and all endorsees, sureties and guarantors hereof hereby jointly and severally waive presentment for payment, demand, notice of non-payment, notice of protest or protest of this Note, and Lender diligence in collection or bringing suit, and do hereby consent to any and all extensions of time, renewals, waivers or modifications as may be granted by Lender with respect to payment or any other provisions of this Note. The liability of Borrower under this Note shall be absolute and unconditional, without regard to the liability of any other party.

8. Usury. Notwithstanding anything herein to the contrary, in no event shall Borrower be required to pay a rate of interest in excess of the Maximum Rate. The term “Maximum Rate” shall mean the maximum non-usurious rate of interest that Lender is allowed to contract for, charge, take, reserve or receive under the applicable laws of any applicable state or of the United States of America (whichever from time to time permits the highest rate for the use, forbearance or detention of money) after taking into account, to the extent required by applicable law, any and all relevant payments or charges hereunder, or under any other document or instrument executed and delivered in connection therewith and the indebtedness evidenced hereby.

In the event Lender ever receives, as interest, any amount in excess of the Maximum Rate, such amount as would be excessive interest shall be deemed a partial prepayment of principal, and, if the principal hereof is paid in full, any remaining excess shall be returned to Borrower. In determining whether or not the interest paid or payable, under any specified contingency, exceeds the Maximum Rate, Borrower and Lender shall, to the maximum extent permitted by law, (a) characterize any non-principal payment as an expense, fee, or premium rather than as interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread the total amount of interest through the entire contemplated term of such indebtedness until payment in full of the principal (including the period of any extension or renewal thereof) so that the interest on account of such indebtedness shall not exceed the Maximum Rate.

9. Miscellaneous.

(a) All modifications, consents, amendments or waivers of any provision of any this Note shall be effective only if in writing and signed by Lender and then shall be effective only in the specific instance and for the limited purpose for which given.

(b) All communications provided in this Note shall be personally delivered or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the addresses set forth at the beginning of this Note or such other addresses as Borrower or Lender may indicate by written notice.

(c) The headings used in this Note are for convenience of reference only and shall not in any way affect the meaning or interpretation of this Note.

(d) This Note shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns; provided, however, that neither party may, without the prior written consent of the other party, assign any rights, powers, duties or obligations under this Note.

(e) This Note shall be construed and enforced in accordance with the laws of the State of Michigan. All actions arising out of or relating to this Note shall be heard and determined exclusively by any state or federal court with jurisdiction in the Eastern District of the State of Michigan. Consistent with the preceding sentence, the parties hereto hereby irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, that the venue of the action is improper, or that this Note or the transactions contemplated by this Note may not be enforced in or by any of the above-named courts.

(f) This Note is intended to amend and restate, and is not intended to be in substitution for or a novation of, that certain Senior Secured Convertible Promissory Note, dated December 1, 2011, executed and delivered by Borrower in favor of Lender in the original principal amount of \$2,000,000.00, as previously amended and restated (the "Original Note"). This Note shall continue to be secured by the security instruments and UCC statements executed and filed with the Original Note, and otherwise as set forth in the loan documentation executed in connection with the Original Note.

[Signature on the following page]

IN WITNESS WHEREOF, the undersigned has duly executed this Fifth Amended and Restated Senior Secured Convertible Promissory Note as of the day and year first written above.

BORROWER:

ZIVO BIOSCIENCE, INC.
(formerly HEALTH ENHANCEMENT PRODUCTS, INC.)

By: /s/ Philip M. Rice, II
Print Name: Philip M. Rice, II
Its: Chief Financial Officer

EXHIBIT 1

<u>Date Invested</u>	<u>Tranche #</u>	<u>Amount</u>	<u>Due Date</u>	<u>Conversion Rate</u>	<u>Interest Rate</u>	<u>Warrant Coverage ("cashless")</u>
December 1, 2011	1	\$ 500,000	April 1, 2015	\$ 0.12	11%	10%
April 4, 2012	2	250,000	April 1, 2015	0.12	11%	10%
May 8, 2012	3	250,000	April 1, 2015	0.12	11%	10%
March 18, 2013	4	500,000	April 1, 2015	0.12	11%	10%
April 10, 2013	5	250,000	April 10, 2015	0.12	11%	10%
April 16, 2013	6	250,000	April 16, 2015	0.12	11%	10%
April 29, 2013	7	250,000	April 29, 2015	0.12	11%	10%
May 7, 2013	8	250,000	May 7, 2015	0.12	11%	10%
July 15, 2013	9A	160,000	July 15, 2015	0.12	11%	10%
July 15, 2013	9B	90,000	July 15, 2015	0.22	11%	10%
July 25, 2013	10	250,000	July 25, 2015	0.22	11%	10%
September 30, 2013	11	300,000	September 30, 2015	0.22	11%	10%
October 28, 2013	12	250,000	October 28, 2015	0.30	11%	10%
December 30, 2013	13	500,000	December 30, 2015	0.30	11%	10%
July 14, 2014	14	1,035,000	July 14, 2016	0.15	11%	10%
September 19, 2014	15	250,000	September 19, 2016	0.15	11%	10%
Total		\$ <u>5,335,000</u>				