

FRESENIUS MEDICAL CARE CORP

Form 6-K

November 12, 2004

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**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 6-K**

**REPORT OF FOREIGN PRIVATE ISSUER**

Pursuant to Rule 13a-16 or 15d-16 of the  
Securities Exchange Act of 1934

For the month of November 2004

**FRESENIUS MEDICAL CARE CORPORATION**

(Translation of registrant's name into English)

Else-Kröner Strasse 1  
61346 Bad Homburg  
Germany

*(Address of principal executive offices)*

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F  Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes  No

If Yes is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):  
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**FRESENIUS MEDICAL CARE AG**  
**PART I**  
**FINANCIAL INFORMATION**  
**ITEM 1**  
**Financial Statements**  
**Consolidated Statements of Earnings**  
**For the three months ended September 30, 2004 and 2003**  
**(unaudited)**  
**(in thousands, except per share data)**

	<u>2004</u>	<u>2003</u>
Net revenue:		
Dialysis Care	\$ 1,148,863	\$ 1,018,092
Dialysis Products	427,755	391,349
	<u>1,576,618</u>	<u>1,409,441</u>
Costs of revenue:		
Dialysis Care	822,032	730,723
Dialysis Products	237,469	215,282
	<u>1,059,501</u>	<u>946,005</u>
Gross profit	517,117	463,436
Operating expenses:		
Selling, general and administrative	291,294	253,593
Research and development	11,767	12,780
	<u>214,056</u>	<u>197,063</u>
Operating income	214,056	197,063
Other (income) expense:		
Interest income	(4,188)	(2,657)
Interest expense	49,525	55,344
	<u>168,719</u>	<u>144,376</u>
Income before income taxes and minority interest	168,719	144,376
Income tax expense	67,126	56,493
Minority interest	(539)	563
	<u>\$ 102,132</u>	<u>\$ 87,320</u>
Net income	\$ 102,132	\$ 87,320
Basic income per Ordinary share	<u>\$ 1.06</u>	<u>\$ 0.90</u>

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Basic income per Preference share	\$ 1.07	\$ 0.92
	<u>          </u>	<u>          </u>
Fully diluted income per Ordinary share	\$ 1.05	\$ 0.90
	<u>          </u>	<u>          </u>
Fully diluted income per Preference share	\$ 1.06	\$ 0.92
	<u>          </u>	<u>          </u>

See accompanying notes to unaudited consolidated financial statements

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**FRESENIUS MEDICAL CARE AG**  
**Consolidated Statements of Earnings**  
**For the nine months ended September 30, 2004 and 2003**  
**(unaudited)**  
**(in thousands, except per share data)**

	<u>2004</u>	<u>2003</u>
Net revenue:		
Dialysis Care	\$3,334,011	\$2,940,711
Dialysis Products	1,253,965	1,134,364
	<u>4,587,976</u>	<u>4,075,075</u>
Costs of revenue:		
Dialysis Care	2,396,006	2,134,821
Dialysis Products	667,753	617,116
	<u>3,063,759</u>	<u>2,751,937</u>
Gross profit	1,524,217	1,323,138
Operating expenses:		
Selling, general and administrative	861,126	736,133
Research and development	38,169	37,258
	<u>624,922</u>	<u>549,747</u>
Operating income	624,922	549,747
Other (income) expense:		
Interest income	(9,908)	(9,254)
Interest expense	147,267	168,668
	<u>487,563</u>	<u>390,333</u>
Income before income taxes and minority interest	487,563	390,333
Income tax expense	193,388	152,059
Minority interest	367	1,593
	<u>\$ 293,808</u>	<u>\$ 236,681</u>
Net income	<u>\$ 293,808</u>	<u>\$ 236,681</u>
Basic income per Ordinary share	<u>\$ 3.04</u>	<u>\$ 2.44</u>
Basic income per Preference share	<u>\$ 3.09</u>	<u>\$ 2.50</u>

Fully diluted income per Ordinary share	\$ 3.02	\$ 2.44
	<u>          </u>	<u>          </u>
Fully diluted income per Preference share	\$ 3.07	\$ 2.50
	<u>          </u>	<u>          </u>

See accompanying notes to unaudited consolidated financial statements

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**FRESENIUS MEDICAL CARE AG**  
**Consolidated Balance Sheets**  
**At September 30, 2004 and December 31, 2003**  
**(in thousands, except share and per share data)**

	<u>2004</u>	<u>2003</u>
	(unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	\$ 57,872	\$ 48,427
Trade accounts receivable, less allowance for doubtful accounts of \$173,738 in 2004 and \$166,385 in 2003	1,409,658	1,229,503
Accounts receivable from related parties	72,443	50,456
Inventories	444,822	444,738
Prepaid expenses and other current assets	247,140	253,365
Deferred taxes	196,027	179,639
	<hr/>	<hr/>
Total current assets	2,427,962	2,206,128
Property, plant and equipment, net	1,085,655	1,089,146
Intangible assets	594,239	582,103
Goodwill	3,381,222	3,288,348
Deferred taxes	39,353	35,541
Other assets	192,203	302,054
	<hr/>	<hr/>
Total assets	<u>\$7,720,634</u>	<u>\$7,503,320</u>
Liabilities and shareholders' equity		
Current liabilities:		
Accounts payable	\$ 169,475	\$ 177,824
Accounts payable to related parties	135,702	128,703
Accrued expenses and other current liabilities	607,416	553,830
Accrual for special charge for legal matters	127,015	138,154
Short-term borrowings	156,955	89,417
Short-term borrowings from related parties	7,070	30,000
Current portion of long-term debt and capital lease obligations	306,114	90,365
Income tax payable	177,793	178,111
Deferred taxes	50,838	26,077
	<hr/>	<hr/>
Total current liabilities	1,738,378	1,412,481
Long-term debt and capital lease obligations, less current portion	819,144	1,111,624
Other liabilities	119,612	128,615
Pension liabilities	105,244	100,052
Deferred taxes	255,622	250,446



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Company-obligated mandatorily redeemable preferred securities of subsidiary Fresenius Medical Care Capital Trusts holding solely Company-guaranteed debentures of subsidiaries	1,229,650	1,242,317
Minority interest	16,915	14,105
	<u>                    </u>	<u>                    </u>
Total liabilities	4,284,565	4,259,640
Shareholders' equity:		
Preference shares, no par, 2.56 nominal value, 53,597,700 shares authorized, 26,265,298 issued and outstanding	69,776	69,616
Ordinary shares, no par, 2.56 nominal value, 70,000,000 shares authorized, issued and outstanding	229,494	229,494
Additional paid-in capital	2,744,778	2,741,362
Retained earnings	549,716	378,014
Accumulated other comprehensive loss	(157,695)	(174,806)
	<u>                    </u>	<u>                    </u>
Total shareholders' equity	3,436,069	3,243,680
	<u>                    </u>	<u>                    </u>
Total liabilities and shareholders' equity	\$7,720,634	\$7,503,320
	<u>                    </u>	<u>                    </u>

See accompanying notes to unaudited consolidated financial statements

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**FRESENIUS MEDICAL CARE AG**  
**Consolidated Statements of Cash Flows**  
**For the nine months ended September 30, 2004 and 2003**  
**(unaudited)**  
**(in thousands)**

	<u>2004</u>	<u>2003</u>
Operating Activities:		
Net income	\$ 293,808	\$ 236,681
Adjustments to reconcile net income to cash and cash equivalents provided by operating activities:		
Depreciation and amortization	171,367	158,983
Change in deferred taxes, net	36,380	44,589
Loss (gain) on sale of fixed assets	87	(1,224)
Compensation expense related to stock options	1,330	1,165
Cash inflow from Hedging	8,566	27,851
Changes in assets and liabilities, net of amounts from businesses acquired:		
Trade accounts receivable, net	(8,249)	29,655
Inventories	1,542	(20,048)
Prepaid expenses, other current and non-current assets	20,711	31,400
Accounts receivable from/ payable to related parties	(16,368)	(5,079)
Accounts payable, accrued expenses and other current and non-current liabilities	50,539	(48,437)
Income tax payable	336	47,092
	<u>560,049</u>	<u>502,628</u>
Investing Activities:		
Purchases of property, plant and equipment	(156,398)	(141,390)
Proceeds from sale of property, plant and equipment	13,283	12,665
Acquisitions and investments, net of cash acquired	(73,981)	(78,813)
	<u>(217,096)</u>	<u>(207,538)</u>
Financing Activities:		
Proceeds from short-term borrowings	33,285	64,591
Repayments of short-term borrowings	(35,901)	(99,144)
Proceeds from short-term borrowings from related parties	56,982	94,787
Repayments of short-term borrowings from related parties	(80,000)	(6,000)
Proceeds from long-term debt	159,558	927,727
Principal payments of long-term debt and capital lease obligations	(254,607)	(908,026)
Decrease of accounts receivable securitization program	(90,998)	(265,683)
Proceeds from exercise of stock options	2,246	471
Dividends paid	(122,106)	(107,761)
Redemption of Series D Preferred Stock of subsidiary		(8,906)

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Change in minority interest	(349)	(282)
	<u>          </u>	<u>          </u>
Net cash used in financing activities	(331,890)	(308,226)
	<u>          </u>	<u>          </u>
Effect of exchange rate changes on cash and cash equivalents	(1,618)	10,729
	<u>          </u>	<u>          </u>
Cash and Cash Equivalents:		
Net increase (decrease) in cash and cash equivalents	9,445	(2,407)
Cash and cash equivalents at beginning of period	48,427	64,793
	<u>          </u>	<u>          </u>
Cash and cash equivalents at end of period	\$ 57,872	\$ 62,386
	<u>          </u>	<u>          </u>

See accompanying notes to unaudited consolidated financial statements

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**FRESENIUS MEDICAL CARE AG**  
**Consolidated Statement of Shareholders' Equity**  
**For the nine months ended September 30, 2004 (unaudited) and year ended December 31, 2003**  
**(in thousands, except share data)**

	Preference Shares		Ordinary Shares			Accumulated other comprehensive loss				Total
	Number of shares	No par value	Number of shares	No par value	Additional paid in capital	Retained earnings	Foreign currency translation	Cash flow hedges	Minimum pension liability	
Balance at December 31, 2002	26,188,575	\$69,540	70,000,000	\$229,494	\$2,736,913	\$ 154,595	\$(346,824)	\$(17,182)	\$(19,357)	\$2,807,178
Proceeds from exercise of options	25,404	76			1,524					1,600
Compensation expense related to stock options					1,456					1,456
Dividends paid in connection with the acquisition of Fresenius AG						(107,761)				(107,761)
Other comprehensive income (loss) attributable to:					1,469					1,469
Cash flow hedges								22,029		22,029
Foreign currency translation adjustment							200,578			200,578
Minimum pension liability									(14,050)	(14,050)
Other comprehensive income						331,180				331,180
										539,737

Balance at December 31, 2003	26,213,979	\$69,616	70,000,000	\$229,494	\$2,741,362	\$ 378,014	\$(146,246)	\$ 4,847	\$(33,407)	\$3,243,680
Proceeds from exercise of options	51,319	160			2,086					2,241
Compensation expense related to stock options					1,330					1,330
Dividends paid						(122,106)				(122,106)
Comprehensive income						293,808				293,808
Other comprehensive income (loss) related										
Cash flow edges								(33,734)		(33,734)
Foreign currency translation adjustment							50,845			50,845
Comprehensive income										310,919
Balance at September 30, 2004	26,265,298	\$69,776	70,000,000	\$229,494	\$2,744,778	\$ 549,716	\$(95,401)	\$(28,887)	\$(33,407)	\$3,436,060

See accompanying notes to unaudited consolidated financial statements

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**FRESENIUS MEDICAL CARE AG**  
**Notes to Consolidated Financial Statements**  
**(unaudited)**  
**(in thousands, except share and per share data)**

**1. The Company and Basis of Presentation**

***The Company***

Fresenius Medical Care AG ( FME or the Company ) is a German stock corporation (*Aktiengesellschaft*). The Company is primarily engaged in (i) providing kidney dialysis services and clinical laboratory testing and (ii) manufacturing and distributing products and equipment for dialysis treatment.

**Basis of Presentation**

***Basis of Consolidation***

The consolidated financial statements at September 30, 2004 and for the three- and nine-month periods ended September 30, 2004 and 2003 in this report are unaudited and should be read in conjunction with the consolidated financial statements in the Company's 2003 Annual Report on Form 20-F. Such financial statements reflect all adjustments that, in the opinion of management, are necessary for a fair presentation of the results of the periods presented. All such adjustments are of a normal recurring nature.

The results of operations for the three- and nine-month periods ended September 30, 2004 are not necessarily indicative of the results of operations for the year ending December 31, 2004.

**2. Special Charge for Legal Matters**

In the fourth quarter of 2001, the Company recorded a \$258,159 (\$177,159 after tax) special charge to address 1996 merger-related legal matters, estimated liabilities and legal expenses arising in connection with the W.R. Grace & Co. Chapter 11 proceedings (the Grace Chapter 11 Proceedings ) and the cost of resolving pending litigation and other disputes with certain commercial insurers (see Note 11).

The Company accrued \$172,034 principally representing a provision for income taxes payable for the years prior to the 1996 merger for which the Company has been indemnified by W.R. Grace & Co., but may ultimately be obligated to pay as a result of Grace's Chapter 11 Proceedings. In addition, that amount included the costs of defending the Company in litigation arising out of the Grace Chapter 11 Proceedings (see Note 11).

The Company included \$55,489 in the special charge to provide for settlement obligations, legal expenses and the resolution of disputed accounts receivable relating to various insurance companies.

The remaining amount of the special charge of \$30,636 was accrued mainly for (i) assets and receivables that are impaired in connection with other legal matters and (ii) anticipated expenses associated with the continued defense and resolution of the legal matters.

During the second quarter of 2003, the court supervising the Grace Chapter 11 Proceedings approved the definitive settlement agreement entered into among the Company, the committee representing the asbestos creditors and W.R. Grace & Co. Based on these developments, the Company has reduced its estimate for the settlement and related

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**FRESENIUS MEDICAL CARE AG**  
**Notes to Consolidated Financial Statements (Continued)**  
**(unaudited)**  
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costs of the Grace Chapter 11 Proceedings by \$39,000. This reduction of the provision for the W.R. Grace & Co. matter has been applied to the other components of the special charge (i.e. reserves for settlement obligations and disputed accounts receivable from commercial insurers and other merger-related legal matters described in this note).

At September 30, 2004, there is a remaining balance of \$127,015 for the accrual for the special charge for legal matters. The Company believes that these reserves are adequate for the settlement of all matters described above. During the three and nine months ended September 2004, \$9,282 and \$11,139, respectively, in charges were applied against the accrued special charge for legal matters.

**3. Variable Interest Entities**

In December 2003, the Financial Accounting Standards Board issued FASB Interpretation No. 46R *Consolidation of Variable Interest Entities (revised)* ( FIN 46R ). FIN 46R explains the concept of a variable interest entity ( VIE ) and requires consolidation by the primary beneficiary where the variable interest entity does not have sufficient equity at risk to finance its activities without additional subordinated financial support from other parties or the equity investors lack the essential characteristics of a controlling financial interest. The Company enters into various arrangements with certain dialysis clinics to provide management services, financing and product supply. Some of these clinics are variable interest entities. Under FIN 46R these clinics are consolidated if the Company is determined to be the primary beneficiary. The Company also participates in a joint venture which is engaged in the perfusion industry. The arrangements with the joint venture partner are such that it qualifies as a variable interest entity and the Company is the primary beneficiary. These variable interest entities in which the Company is the primary beneficiary, generate approximately \$146,000 in annual revenue.

In accordance with FIN 46R, the Company fully consolidates the VIEs. The interest held by the minority shareholders in these consolidated VIEs is reported as minority interest in the consolidated balance sheet at September 30, 2004. The VIEs have had no impact on shareholders' equity. The results of operations for the VIEs have been included in the consolidated statement of earnings beginning April 1, 2004.

The Company also has relationships with variable interest entities where it is not the primary beneficiary. These variable interest entities consist of a number of dialysis facilities whose operations are not material in the aggregate and a management company with which the Company has had a relationship with since 1998. The management company has approximately \$10,000 in sales and the Company has no potential losses as a result of its relationship.

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**FRESENIUS MEDICAL CARE AG**  
**Notes to Consolidated Financial Statements (Continued)**  
**(unaudited)**  
**(in thousands, except share and per share data)**

**4. Debt and Capital Lease Obligations**

At September 30, 2004 and December 31, 2003, long-term debt and capital lease obligations consisted of the following:

	<b>September 30, 2004</b>	<b>December 31, 2003</b>
	<u>                    </u>	<u>                    </u>
Senior credit agreement	\$ 848,400	\$ 912,300
Capital leases	7,147	9,919
Euro Notes	159,456	162,296
Other	110,255	117,474
	<u>                    </u>	<u>                    </u>
	1,125,258	1,201,989
Less current maturities	(306,114)	(90,365)
	<u>                    </u>	<u>                    </u>
	<u>\$ 819,144</u>	<u>\$ 1,111,624</u>

**2003 Senior Credit Agreement**

On February 21, 2003, the Company entered into an amended and restated bank agreement (hereafter, the 2003 Senior Credit Agreement ) with Bank of America N.A, Credit Suisse First Boston, Dresdner Bank AG New York, JPMorgan Chase Bank, The Bank of Nova Scotia and certain other lenders (collectively, the Lenders ), replacing the 1996 Senior Credit Agreement that was scheduled to expire at September 30, 2003. Under the terms of the 2003 Senior Credit Agreement, the Lenders made available to the Company and certain subsidiaries and affiliates an aggregate amount of up to \$1,500,000.

On August 22, 2003, the 2003 Senior Credit Agreement was amended (Amendment 1) so that, in effect, the aggregate amount of \$1,500,000 was voluntarily reduced to \$1,400,000 and the interest rate on a new term loan facility (Loan C) was 25 basis points lower than on Loan B, which was repaid. The revolving loan facility and Loan A under the 2003 Senior Credit Agreement remain outstanding and were not affected by the amendment.

On May 7, 2004, the 2003 Senior Credit Agreement was amended (Amendment 2) so that Loan A was increased from \$500,000 to \$575,000, the revolving credit facility was increased from \$500,000 to \$575,000 and a new term loan (Loan D, see below) was added at \$250,000. The combination of these increases together with funds from the Accounts Receivable Facility were used to pay off Loan C.

As of September 30, 2004, the credit facilities are:

a revolving credit facility of up to \$575,000 (of which up to \$250,000 is available for letters of credit, up to



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\$300,000 is available for borrowings in certain non-U.S. currencies, up to \$75,000 is available as swing lines in U.S. dollars, up to \$250,000 is available as a competitive loan facility and up to \$50,000 is available as swing lines in certain non-U.S. currencies, the total of which cannot exceed \$575,000) which will be due and payable on October 31, 2007.

a term loan facility ( Loan A ) of \$575,000, also scheduled to expire on October 31, 2007. The terms of the 2003 Senior Credit Agreement require payments that permanently reduce

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**FRESENIUS MEDICAL CARE AG**  
**Notes to Consolidated Financial Statements (Continued)**  
**(unaudited)**  
**(in thousands, except share and per share data)**

Loan A. The repayment began in the third quarter of 2004 and amounts to \$28,750 per quarter. The remaining amount outstanding is due on October 31, 2007.

a term loan facility ( Loan D ) of \$250,000 scheduled to expire February 21, 2010 subject to an early repayment requirement on October 31, 2007 if the Trust Preferred Securities due February 1, 2008 are not repaid or refinanced or their maturity is not extended prior to that date. The terms of Loan D require quarterly payments totaling \$625 per quarter that began in the second quarter of 2004.