

PUBLICATION

DOT Final Rule Requiring Refunds for Tickets and Ancillary Services

Authors: Alexander T. Marriott

May 16, 2024

After receiving thousands of comments and holding a rare public hearing, the Department of Transportation (DOT) has issued a joint Final Rule (Rule) requiring the issuance of refunds for ancillary fees and tickets by domestic and foreign air carriers and ticket agents. In addition to modifying the consumer protection rules in 14 CFR 259 and 399, the new Rule establishes two new parts in the DOT's Economic Regulations: 14 CFR 260 "Refunds for Airline Fare and Ancillary Service Fees" and 14 CFR 262 "Travel Credits or Vouchers Due to a Serious Communicable Disease." Air carriers and ticket agents will now be required to issue automatic refunds to consumers when they do not receive the ancillary services they paid for, or if there is a "significant change" to, or "cancellation" of, a scheduled flight. This new Rule comes in the wake of the COVID-19 pandemic, in which the lack of clarity on when refunds were due to consumers caused a great degree of confusion for air carriers resulting in millions of dollars in penalties against both domestic and foreign carriers.

As noted above, the Rule also targets ticket agents, defined in 49 U.S.C. 40102(a)(45) as entities that "...sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation." If the ticket agent is listed as the merchant of record (i.e., the entity shown on any financial statement for the transaction), then it will be responsible for issuing the refund(s) to the consumer.

Four Major Consumer Protection Components

The Rule implements four major consumer protection requirements: (i) ticket refunds when a flight is significantly changed or is canceled; (ii) baggage fee refunds for delayed baggage; (iii) ancillary services fee refunds when such services are not provided; and (iv) issuance of vouchers or credits for consumers affected by a communicable disease.

I. Ticket Refunds for Cancellations and Significant Schedule Changes

The most meaningful aspect of this Rule is the defining of the terms "significant change" and "cancellation." Prior to defining these terms, air carriers had adopted various interpretations of when a flight was canceled, or an itinerary was significantly changed, such that a consumer was entitled to a refund. The terms are now defined as follows:

- "Cancelled Flight" means a flight that is published on a carrier's Computer Reservation System but is not operated by the carrier.
- "Significant Change of a Flight Itinerary" occurs when: (i) a domestic flight is scheduled to depart three or more hours earlier (or six hours for a foreign flight); (ii) a domestic flight is scheduled to arrive three or more hours later (or six hours for a foreign flight); (iii) the origination or destination airport is changed; (iv) any connect points are added; (v) a consumer is downgraded to a lower class of service; and (vi) a substitute aircraft reduces the accessibility for a passenger with a disability.

In the event of a cancellation or significantly changed flight itinerary, the air carriers and ticket agents are obligated to promptly notify consumers of their entitlement to a refund of their ticket price and any ancillary

fees, as well as any alternative offer in lieu of the refund (e.g., alternative transportation, credit, and/or vouchers). If the consumer requests the refund, the refund must be issued within seven **business days** for credit card purchases, and 20 **calendar days** for other forms of payment.

II. Baggage Fee Refunds

Consumers must receive a refund of any baggage fees if their baggage is not timely delivered according to the following timelines:

- Domestic Itineraries – within 12 hours of the passenger's flight arriving at the gate;
- International Itineraries – when the flight segment between the U.S. and foreign point is **less** than 12 hours – within 15 hours of the passenger's flight arriving at the gate; and
- International Itineraries when the flight segment between the U.S. and a foreign point is **more** than 12 hours – within 30 hours of the passenger's flight arriving at the gate.

Notably, in order to receive this refund consumers must have filed a report with the air carrier notifying them of the delayed baggage. If the flight was operated by more than one air carrier, the air carrier responsible for the final segment of the flight will be responsible for the lost baggage.

Air carriers are also exempt from issuing such refunds if: (i) the consumer fails to pick up a checked bag when the bag arrived at the final destination on time; (ii) the consumer fails to pick up any rechecked bag upon entering the U.S.; or (iii) the consumer agrees to a new baggage delivery date or location after failing to meet the minimum check-in time for the flight or is a standby passenger.

III. Ancillary Fee Refunds

Any time an air carrier fails to provide a consumer any ancillary service that the passenger paid for (e.g., Wi-Fi service, lounge access, etc.), an automatic refund must be issued for the service. If a flight is operated by more than one air carrier, the air carrier that failed to provide the ancillary service is responsible for the refund. The air carrier's obligation to issue a prompt refund begins once they become aware that such service is not being issued. Refunds must be issued within seven **business days** for credit card purchases, and 20 **calendar days** for other forms of payment.

IV. Vouchers or Credits for Consumers Affected by a Communicable Disease

Air carriers and ticket agents are required to issue travel vouchers or credits (not refunds) to consumers who are unable to travel on a flight due to being affected by a communicable disease, which do not expire for five years and are transferrable. This refund is available: (i) if the consumer was advised by a medical professional not to travel during a public health emergency after the ticket was purchased; (ii) a government entity requires a consumer to quarantine or prohibits them from flying, after the purchase of the ticket; and (iii) a consumer is advised by a licensed medical professional not to fly as they have contracted a serious communicable disease.

Before issuing such travel credits or vouchers, the air carrier may require the consumer to provide documentation to support their claim that they were affected by a communicable disease, which may include the applicable government order and/or a written statement from a licensed treating medical professional. Once such medical impact has been established the carrier must issue the consumer a credit or voucher with a value equal or greater to the fare (including any taxes or fees).

Implementation of the Rule

This is one of the most significant consumer protection Rules implemented by the DOT and will take time for air carriers and ticket agents to adjust their policies and internal IT systems. DOT has stated that it will take such challenges into consideration and will be publishing a separate notice announcing the effective dates of the Rule. However, the Rule did state two anticipated effective dates:

- October 28, 2024 – The provisions in the first three above categories, regarding refunds for tickets, ancillary fees, and late baggage.
- April 28, 2025 – The provision in the last category regarding the issuance of travel and credit vouchers for consumers affected by a communicable disease.

Process/Service Fees

When issuing refunds air carriers are prohibited from retaining any booking fees that were charged when tickets were purchased or charging processing fees when issuing refunds. Ticket agents, however, will be permitted to retain service fees that were charged when a ticket was originally purchased, provided such fees were disclosed to consumers when the purchase was made. The DOT has not yet determined if a ticket agent may charge a processing fee when issuing refunds and plans to address this question in a later rulemaking.

Conclusion

This alert provides a brief overview of the DOT's Final Rule on issuing refunds for tickets and ancillary services. Please note there are additional, complex aspects of the Rule, and the summary above is not intended to be comprehensive. If you or your company have any questions about compliance with the new regulations or any other DOT consumer protection regulations please contact [Alexander T. Marriott](#), [James Janaitis](#), or [Trey Range](#).