

§ 260.4

consumer paid where a ticket agent is the merchant of record for an ancillary service fee other than checked bag fee.

§ 260.4 Refunding fees for ancillary services that consumers paid for but that were not provided.

(a) A covered carrier that is the merchant of record shall provide a prompt and automatic refund to a consumer for any fees it collected from the consumer for ancillary services if the service was not provided through no fault of the consumer (*e.g.*, prepaid ancillary service not utilized by the consumer because of flight cancellation, significant change, or oversale situation; service not provided because of aircraft substitution, equipment malfunction, etc.). If a ticket agent is the merchant of record for a checked bag fee and the checked bag service was not provided (or was significantly delayed) through no fault of the consumer, the carrier that operated the flight, or for multiple-carrier itineraries, the carrier that operated the last segment of the consumer's itinerary is responsible for providing a prompt and automatic refund of the checked bag fee, consistent with § 260.5. If a ticket agent is the merchant of record for fees for all other ancillary services, the carrier that operated the flight and failed to provide the service through no fault of the consumer is responsible for providing a prompt and automatic refund.

(b) In situations where the ancillary service the consumer paid for (other than the service of transporting a checked bag) is not available for all the passengers who paid for that service (*e.g.*, Wi-Fi not available for all passengers on a flight, lounge access not available for all passengers on a certain date), a carrier's obligation under paragraph (a) of this section to provide a prompt and automatic refund begins when the information about the unavailability of the service is known by the carrier that failed to provide the service, and, if applicable, relayed as provided in paragraph (d) of this section to the carrier responsible for providing a prompt refund as specified in paragraph (a) of this section.

(c) In situations where the ancillary service the consumer paid for (other than the service of transporting a

14 CFR Ch. II (1–1–25 Edition)

checked bag) is not available to an individual or several individuals, rather than to all the passengers who paid for that service, a carrier's obligation under paragraph (a) of this section to provide a prompt and automatic refund begins when the consumer affected by the service failure notifies the operating carrier that failed to provide the ancillary service about the unavailability of the service and that information has been confirmed and, if applicable, relayed as provided in paragraph (d) of this section to the carrier responsible for providing a prompt refund as specified in paragraph (a) of this section. Notification of the unavailability of the ancillary service by a consumer is considered a request for a refund.

(d) In situations where a carrier is the merchant of record for a fee for an ancillary service and the carrier that operates the flight where the ancillary service was not provided are different entities, the operating carrier that failed to provide the ancillary service must timely notify the carrier that is the merchant of record about the unavailability of the ancillary service. Notification by the operating carrier as set forth in this paragraph is necessary for the obligation to provide a prompt refund of ancillary service fees in paragraphs (b) and (c) of this section to apply. The obligation set forth in this paragraph for the operating carrier to timely notify the carrier that is the merchant of record does not apply when the failure to provide service relates to transporting checked bags. Timely notification requirements pertaining to refunds for fees charged to transport checked bags are set forth in § 260.5(c).

§ 260.5 Refunding fees for significantly delayed or lost bags.

A covered carrier that is the merchant of record or, if a ticket agent is the merchant of record, the covered carrier that operated the flight or the last flight segment in a multiple-carrier itinerary, must provide a prompt refund to a consumer of any fee charged for transporting a lost bag or a significantly delayed checked bag, as defined in § 260.2 of this part and determined according to paragraph (a) of this section, subject to the conditions

in paragraphs (b) and (c) of this section.

(a) *Determining the length of delay for the bag.* For the purpose of determining whether a checked bag is significantly delayed as defined in §260.2, the length of delay is calculated from the time the passenger is given the opportunity to deplane from a flight at the passenger's final destination airport (the beginning of the delay) to the time that the carrier has delivered the bag to a location agreed upon by the passenger and carrier (*e.g.*, passenger's home or hotel) or the time that the bag has been picked up by the passenger or another person acting on behalf of the passenger at the passenger's final destination airport (the end of the delay).

(b) *Notification by passenger about lost or significantly delayed bag.* A covered carrier does not have an obligation to provide a refund of the fee for a lost or significantly delayed checked bag unless a passenger files a Mishandled Baggage Report (MBR) for the lost or delayed bag with the carrier that operated the flight, or for multiple-carrier itineraries, the carrier that operated the last segment of the consumer's itinerary.

(c) *Notification by carrier that received an MBR about lost or significantly delayed checked bag.* Except when the carrier responsible for providing a prompt refund for a baggage fee as specified in this section is the same carrier that received the MBR, a covered carrier that received the MBR must timely notify the carrier responsible for providing a prompt refund that the bag has been lost or significantly delayed when this is the case. A covered carrier's obligation to provide a prompt refund of a baggage fee for a lost bag or a significantly delayed checked bag as defined in §260.2 is conditioned upon the carrier that received the MBR notifying the carrier responsible for providing a prompt refund that the bag has been lost or significantly delayed.

(d) *Automatic refunds.* An automatic refund of a bag fee is due when a checked bag is significantly delayed as determined according to paragraph (a) of this section, the passenger has filed an MBR as provided in paragraph (b) of this section, and, if applicable, notification has been provided by the carrier

that received the MBR as set forth in paragraph (c) of this section.

(e) *Amount of the refund.* The amount of the refund issued to a consumer must be a value equal to or greater than the fee that the consumer paid to transport his/her checked bag.

(1) For carriers that adopt an escalated baggage fee scale for multiple bags checked by one passenger, the amount of baggage fee refund issued to the passenger can be determined based on the unique identifier assigned to the significantly delayed or lost bag that correlates to the baggage fee charged for that bag at the time of checking. If there is no such unique identifier assigned, carriers must refund the highest per bag fee or fees charged for the multiple bags.

(2) For a carrier that offers a baggage fee subscription program where consumers can pay a subscription fee that covers fees for checked bags for a specified period, the carrier must refund the lowest amount of the baggage fee the carrier charges another passenger of similar frequent flyer status and in the same class of service without the subscription when a passenger subscribing to the program has a significantly delayed or lost bag.

(f) *Exemptions from the refund obligation.* A covered carrier is exempted from the obligation to refund the fee for a significantly delayed bag in situations where the delay resulted from:

(1) A passenger's failure to pick up and recheck a bag at the first international entry point into the United States as required by U.S. Customs and Border Protection;

(2) A passenger's failure to pick up a checked bag that arrived on time at the passenger's ticketed final destination due to the fault of the passenger if documented by the carrier (*e.g.*, passenger ended the travel before reaching the final destination on the itinerary—"hidden city" itinerary, or the passenger failed to pick up the bag before taking a flight on a separate itinerary); and

(3) A passenger's voluntary agreement to travel without the checked bag on the same flight as described in paragraph (g) of this section.

(g) *Voluntary separation from bag.* A carrier may require a passenger who

§ 260.6

14 CFR Ch. II (1–1–25 Edition)

fails to meet the minimum check-in time requirement for a flight or is a standby passenger for a flight (*i.e.*, a passenger who lacks a reservation on that flight and is waiting at the gate for a seat to be available on the flight) to agree to a new baggage delivery date and location in situations where the carrier is unable to place the passenger's checked bag on that flight because of the limited time available. The carrier must not require the passenger to waive the right to a refund of bag fees if the bag is lost, the right to compensation for damaged, lost, or pilfered bags, or the right to incidental expenses reimbursement arising from delayed bags beyond the agreed upon delivery date, consistent with the Department's regulation in 14 CFR part 254 and applicable international treaties.

§ 260.6 Refunding fare for flights cancelled or significantly delayed or changed by carriers.

(a) *Carriers' obligation to provide refunds*—(1) *Carriers' obligation*. A covered carrier that is the merchant of record must provide a full and prompt refund of the airfare, including any taxes and ancillary fees, as set forth in paragraph (a)(2) of this section to a consumer that holds a nonrefundable ticket on a scheduled flight to, from, or within the United States for any cancelled flight or significantly delayed or changed flight where the consumer chooses not to:

(i) Fly on the significantly delayed or changed flight or accept rebooking on an alternative flight; or

(ii) Accept any voucher, credit, or other form of compensation offered by the air carrier or foreign air carrier pursuant to paragraph (c) of this section.

(2) *Automatic refunds*. A full refund of the airfare, including any taxes and ancillary fees, is due to a consumer as described in paragraphs (a)(2)(i) through (iii) of this section:

(i) A flight is canceled and a consumer is not offered an alternative flight or any voucher, credit, or other form of compensation by the air carrier or foreign air carrier pursuant to paragraph (c) of this section;

(ii) A consumer rejects the significantly delayed or changed flight, rebooking on an alternative flight, or any voucher, credit, or other form of compensation offered by the covered carrier pursuant to paragraph (c) of this section; or

(iii) A consumer does not respond to an offer of:

(A) A significantly delayed or changed flight or an alternative flight and the flight departs without the consumer; or

(B) A voucher, credit, or other form of compensation by the date on which the cancelled flight was scheduled to depart or the date that the significantly delayed or changed flight departs.

(b) *Individuals with a disability*. A carrier that is the merchant of record must provide a full and prompt refund to an individual with a disability upon notification by the individual with a disability that he/she does not want to continue travel because of the significant changes described in paragraphs (b)(1) through (3) of this section. The covered carrier must also provide a full and prompt refund to any individuals in the same reservation as the individual with a disability who do not want to continue travel without the individual with a disability in situations described in paragraphs (b)(1) through (3).

(1) The individual with a disability is downgraded to a lower class of service that results in one or more accessibility features needed by the individual becoming unavailable.

(2) The individual with a disability is scheduled to travel through one or more connecting airports that are different from the original itinerary.

(3) The individual with a disability is scheduled to travel on a substitute aircraft on which one or more accessibility features available on the original aircraft needed by the individual are unavailable.

(c) *Alternative to refund*. A covered carrier may offer a voucher, credit, or other form of compensation as an explicit alternative to providing a refund required by paragraph (a) of this section if:

(1) The offer includes a clear and conspicuous notice of—